

## EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS - RICHMOND  
REGION COUNCIL 4614, et al., ) Civil Action  
Plaintiffs, ) No. 1:18cv-00423  
(LO/IDD)  
vs. )  
PUBLIC INTEREST LEGAL  
FOUNDATION, et al., )  
Defendants. )

VIDEOTAPED DEPOSITION OF NOEL JOHNSON  
Washington, DC  
April 12, 2019

Reported by: John L. Harmonson, RPR  
Job No. 158968

April 12, 2019  
9:01 a.m.

Videotaped Deposition of NOEL JOHNSON, held at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, N.W., Washington, D.C., pursuant to the Federal Rules of Civil Procedure, subject to such stipulations as may be recited herein or attached hereto, before John L. Harmonson, a Registered Professional Reporter and Notary Public of the District of Columbia, who officiated in administering the oath to the witness.

## A P P E A R A N C E S

On behalf of the Plaintiffs:

SKADDEN, ARPS, SLATE, MEAGHER & FLOM  
1440 New York Avenue, NW  
Washington, DC 20005  
BY: SEAN TEPE, ESQ.  
ANDREW HANSON, ESQ.

On behalf of the Defendants:

FOLEY & LARDNER  
3000 K Street, NW  
Washington, DC 20007  
BY: MICHAEL LOCKERBY, ESQ.

ALSO PRESENT:

J. CHRISTIAN ADAMS  
NAM NGO, Legal Video Specialist

EXAMINATION INDEX	
WITNESS	PAGE
NOEL JOHNSON	
Examination by Mr. Tepe	10
Examination by Mr. Lockerby	247
Examination by Mr. Tepe	275
Examination by Mr. Lockerby	287
***	

EXHIBIT INDEX	
EXHIBIT NO.	PAGE
Exhibit 1	28
LinkedIn profile	
Exhibit 2	31
E-mail string; PILF-ADAMS-0009064	
Exhibit 3	46
E-mail string; PILF-ADAMS-0046537	
Exhibit 4	49
E-mail string; PILF-ADAMS-0008775	
Exhibit 5	67
E-mail string; PILF-ADAMS-0008775	
Exhibit 6	69
E-mail; PILF-ADAMS-0014107	
Exhibit 7	70
E-mail; PILF-ADAMS-0005621	

EXHIBIT INDEX (Cont.'d)	
	PAGE
Exhibit 8	71
E-mail; PILF-ADAMS-0005601	
Exhibit 9	72
E-mail string; PILF-ADAMS-0004985	
Exhibit 10	75
Alien Invasion I	
Exhibit 11	85
Alien Invasion II	
Exhibit 12	99
E-mail; PILF-ADAMS-0000996	
Exhibit 13	118
E-mail; PILF-ADAMS-0013234	
Exhibit 14	121
E-mail string; PILF-ADAMS-0013148	
Exhibit 15	122
E-mail string; PILF-ADAMS-0013118	
Exhibit 16	128
E-mail string; PILF-ADAMS-0000210	
Exhibit 17	143
E-mail string; PILF-ADAMS-0000782	
Exhibit 18	148
E-mail string; PILF-ADAMS-0000732	

## EXHIBIT INDEX (Cont.'d)

## PAGE

1	Exhibit 19	150
2	E-mail string; PILF-ADAMS-0013405	
3	Exhibit 20	154
4	E-mail; PILF-ADAMS-0003261	
5	Exhibit 21	156
6	E-mail string; PILF-ADAMS-0007468	
7	Exhibit 22	163
8	E-mail string; PILF-ADAMS-0013638	
9	Exhibit 23	165
10	E-mail; PILF-ADAMS-0005600	
11	Exhibit 24	167
12	E-mail string; PILF-ADAMS-0044022	
13	Exhibit 25	171
14	E-mail string; PILF-ADAMS-0000770	
15	Exhibit 26	181
16	E-mail string; PILF-ADAMS-0037501	
17	Exhibit 27	187
18	E-mail string; PILF-ADAMS-0001979	
19	Exhibit 28	195
20	E-mail string; PILF-ADAMS-0009322	
21	Exhibit 29	204
22	E-mail string; PILF-ADAMS-0017930	
23		
24		
25		

## EXHIBIT INDEX (Cont.'d)

## PAGE

1	Exhibit 30	206
2	Printout from PILF website	
3	Exhibit 31	212
4	E-mail string; PILF-ADAMS-0011327	
5	Exhibit 32	214
6	E-mail string; PILF-ADAMS-0004883	
7	Exhibit 33	220
8	E-mail string; PILF-ADAMS-0009399	
9	Exhibit 34	223
10	E-mail string; PILF-ADAMS-0047358	
11	Exhibit 35	225
12	E-mail; PILF-ADAMS-0051869	
13	Exhibit 36	228
14	E-mail; PILF-ADAMS-0000250	
15	Exhibit 37	232
16	E-mail string; PILF-ADAMS-0039701	
17	Exhibit 38	237
18	E-mail; PILF-ADAMS-0016737	
19	Exhibit 39	239
20	E-mail string; PILF-ADAMS-0005276	
21	Exhibit 40	241
22	E-mail string; PILF-ADAMS-0005129	
23		
24		
25		

## EXHIBITS (Cont.'d)

## PAGE

1	Exhibit 41	253
2	E-mail; PILF-ADAMS-0008709	
3		
4		
5		
6	PREVIOUSLY MARKED EXHIBITS	
7	VVA 26	134
8	VVA 27	137
9	VVA 39	245
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

## PROCEEDINGS

9:01 a.m.

THE VIDEOGRAPHER: This is the start of tape labeled number 1 of the videotaped deposition of Noel Johnson, in the matter of League of United Latin American Citizens, et al. v. Public Interest Legal Foundation, et al., in the United States District Court for the Eastern District of Virginia, Case Number 1:18cv423.

This deposition is being held at 1440 New York Avenue, Northwest, Washington, D.C. 20005, on April 12, 2019, at approximately 9:01 a.m.

My name is Nam Ngo from TSG Reporting, and I'm the legal video specialist. The court reporter is John Harmonson in association with TSG Reporting.

Will counsel please introduce yourself.

(Whereupon, counsel placed their appearances on the video record.)

//

Whereupon,  
NOEL JOHNSON,  
after having been first duly sworn or affirmed,  
was examined and did testify under oath as  
follows:

MR. TEPE: And for the record,  
Mr. Christian Adams is also here attending  
the deposition.

EXAMINATION

BY MR. TEPE:

Q. Mr. Johnson, can you state your full  
name for the record.

A. Noel Henry Johnson.

Q. Have you been deposed before?

A. No.

Q. Have you testified under oath before?

A. Yes.

Q. In what capacity?

A. It was a car accident involving  
someone else.

Q. When was this?

A. Around 2003.

Q. So this was at a trial?

A. It was not a trial. It was a brief  
hearing. I'm not sure of the nature of the

proceeding, but I was asked a question.

Q. Have you testified under oath in any  
other proceedings?

A. Not that I recall, no.

Q. You understand you're under oath  
today?

A. I do.

Q. Is there any reason why you cannot  
give truthful and accurate testimony today?

A. No.

Q. Before we get underway, and  
particularly since you haven't been deposed  
before, and I assume your counsel, Mr. Lockerby,  
has gone through some of the ground rules, but  
just to make sure we're on the same page I'll go  
through some of those.

The first thing is please provide  
verbal responses, no nodding. Is that okay?

A. That's okay.

Q. All right. And if you can wait until  
I finish the question so we're not talking over  
each other. Can you do that?

A. I can.

Q. Counsel may object to some of my  
questions, but you must answer unless you're

specifically instructed not to answer. Okay?

A. Okay.

Q. If you are confused by my question,  
I'm more than happy to restate it. Just let me  
know. Okay?

A. Okay.

Q. And I usually go about 60 to 90  
minutes before sort of taking a break, but if at  
any time you want to take a break, just let me  
know. The only thing I ask is that if I have a  
question pending, you answer the question and  
then we can take a break. Okay?

A. Okay.

Q. Did you do anything to prepare for  
today's deposition?

A. Yes.

Q. What did you do?

A. I met with my attorney.

Q. Who is that?

A. Mr. Lockerby.

Q. Did you meet with anyone else?

A. No.

Q. So to prepare for today's deposition,  
you met with Mr. Lockerby and no one else?

A. Correct.

Q. When did you meet with Mr. Lockerby?

A. Yesterday.

Q. And for how long?

A. It was all day.

Q. Did you look at documents?

A. I did.

Q. Did any of those documents refresh  
your recollection of the matters involved in this  
case?

A. Yes.

Q. What documents were those?

A. I don't have a specific recollection  
of every document.

Q. But there were a number?

A. What do you mean by number?

Q. More than one?

A. More than one, yes.

Q. Did you talk to anyone else about your  
deposition today other than Mr. Lockerby?

A. Yes.

Q. Who?

A. I told my wife it was happening.

Q. Anyone else?

A. I probably told others at my office it  
was happening.

Page 14

1 Q. Did you talk to Mr. Adams about your  
2 testimony?

3 A. Yes.

4 Q. And what did you discuss?

5 A. Well, not about my testimony, no.

6 Q. Did you talk to Mr. Adams about the  
7 fact that you were being deposed today?

8 A. Yes.

9 Q. And in that regard, what did you  
10 discuss?

11 A. We had -- we briefly discussed the  
12 testimony -- or the deposition of Clara Belle  
13 Wheeler.

14 Q. And what did you discuss there?

15 A. He mentioned that she was not  
16 represented by counsel. He mentioned -- I'm not  
17 recalling exactly what he mentioned other than  
18 that.

19 Q. Did Mr. Adams mention that he was in  
20 attendance at the Clara Belle Wheeler deposition?

21 A. Yes.

22 Q. Did he tell you about anything that  
23 happened in that deposition?

24 A. Yes.

25 Q. What did he tell you about?

Page 15

1 A. I think he mentioned some of the line  
2 of questioning that they gave, that she was  
3 asked.

4 Q. Did he explain why he was telling you  
5 this?

6 A. No.

7 Q. Did you ask for this information?

8 A. No.

9 Q. And you don't recall what he told you?

10 A. I'm not recalling what he told me.  
11 Sorry. He mentioned that they had asked her  
12 questions about who -- who she associates with.

13 Q. Other than Mr. Adams telling you  
14 certain things about what transpired at the  
15 Wheeler deposition, was there anything else that  
16 Mr. Adams told you in preparation for today's  
17 deposition?

18 A. Yes.

19 Q. And what was that?

20 A. We discussed some of the questions  
21 that were asked by Ms. Riggs of Edgardo Cortes.

22 Q. Such as?

23 A. Her line of questioning regarding the  
24 process at DMV for citizenship verification; the  
25 process for creating the VERIS reports that

Page 16

1 reflect noncitizen cancellations.

2 Q. Anything else?

3 A. Not that I recall.

4 Q. So it's not the case that in  
5 preparation for today's deposition you only spoke  
6 with Mr. Lockerby, correct?

7 MR. LOCKERBY: Object to the form.

8 Misstates the witness's testimony.

9 BY MR. TEPE:

10 Q. You can clarify.

11 A. Please repeat the question.

12 Q. So it's not the case that in  
13 preparation for today's deposition you only spoke  
14 with Mr. Lockerby, correct?

15 A. I guess it depends on how you define  
16 "preparation." If you could define "preparation"  
17 for me, I can answer the question.

18 Q. If I have to define "preparation" then  
19 I think I'm going to have to extend the length of  
20 this deposition today.

21 MR. LOCKERBY: And I'm going to object  
22 to the form of the question.

23 MR. TEPE: Because it wasn't a  
24 question.

25 BY MR. TEPE:

Page 17

1 Q. Well, when I asked -- also I asked if  
2 you had talked to anyone else about today's  
3 deposition. You didn't actually volunteer that  
4 you had conversations with Mr. Adams. Is that  
5 correct?

6 A. I did eventually.

7 Q. Eventually?

8 A. Right.

9 Q. When I use the word "you" today, I'm  
10 going to be referring to you as a person. If  
11 there is any question as to whether or not I'm  
12 referring to you or PILF, just let me know. I'll  
13 try and say when I'm talking about PILF, I'll  
14 mention PILF.

15 Now, what is PILF?

16 A. It's a legal foundation.

17 Q. Public Interest Legal Foundation?

18 A. Correct.

19 Q. And is that your current employer?

20 A. Yes.

21 Q. What is your title at PILF?

22 A. I don't have an official title. I go  
23 by litigation counsel.

24 Q. How long have you been at PILF?

25 A. Around June of 2012. But at that time

Page 18

1 it was known as ActRight Legal Foundation.

2 Q. What are your responsibilities as  
3 litigation counsel?

4 A. I do research, education, and  
5 litigation.

6 Q. Can you describe what research you do  
7 in your capacity as litigation counsel?

8 MR. LOCKERBY: I'm just going to  
9 object to the extent that the question seeks  
10 to invade the attorney-client privilege. If  
11 the question is about general types of  
12 research, I would have no instruction not to  
13 answer. However, if the question seeks to  
14 determine specific research that Mr. Johnson  
15 has undertaken for specific clients, I would  
16 instruct him not to answer.

17 THE WITNESS: Generally speaking, I  
18 review election and voter registration data.  
19 I research laws in various states and at the  
20 federal level. Other issues related to  
21 elections and election laws.

22 BY MR. TEPE:

23 Q. I should have asked before, where do  
24 you work in terms of geographic location?

25 A. Indianapolis, Indiana.

Page 19

1 Q. And PILF is an Indianapolis, Indiana,  
2 organization. Is that right?

3 A. Correct.

4 Q. But Mr. Adams works in Virginia. Is  
5 that right?

6 A. Yes.

7 Q. How do you I guess transact business  
8 with Mr. Adams in Virginia and PILF in Indiana?

9 A. Can you define what you mean by  
10 "transact business"?

11 Q. How do you accomplish your daily  
12 tasks?

13 A. With Mr. Adams?

14 Q. Uh-huh.

15 A. We use e-mail or speak on the  
16 telephone.

17 Q. So then in terms of written product,  
18 e-mail is the main way that you transact business  
19 with Mr. Adams?

20 A. Yes.

21 Q. You had mentioned research, education  
22 and litigation. Generally speaking, what is the  
23 education aspect of your responsibilities?

24 A. I have helped produce reports. I have  
25 written material for the media.

Page 20

1 Q. What do you mean, you have written  
2 material for the media?

3 A. Op-eds, for example.

4 Q. And what kind of reports have you  
5 written?

6 A. Reports showing -- touching on voter  
7 registration matters.

8 Q. Such as the Alien Invasion reports?

9 A. That would be one example.

10 Q. You said litigation. Can you describe  
11 that aspect of your job?

12 A. I act as an attorney for the  
13 foundation and for foundation clients.

14 Q. Who are foundation clients?

15 MR. LOCKERBY: I'll object to the form  
16 to the extent it seeks the identity of  
17 clients whose identity is not publicly  
18 known.

19 MR. TEPE: Fair enough.

20 THE WITNESS: Can you better explain  
21 what you're asking?

22 BY MR. TEPE:

23 Q. Well, you said you act as an attorney  
24 for foundation clients, and then I asked who are  
25 the foundation clients.

Page 21

1 A. They're the clients we represent.

2 Q. But who are they?

3 A. Their identity?

4 Q. Yes.

5 MR. LOCKERBY: I'm going to object to  
6 the relevancy of this. To the extent that  
7 the identity of certain clients is a matter  
8 of public record is reflected in public  
9 filings, I'm not instructing the witness not  
10 to answer. However, to the extent that the  
11 identity of clients is not publicly known, I  
12 am instructing the witness not to answer.

13 THE WITNESS: All I know is I can  
14 recall the Virginia Voters Alliance. David  
15 Norcross. The American Civil Rights Union.  
16 BY MR. TEPE:

17 Q. Any others coming to mind?

18 A. We have been a client ourselves, the  
19 foundation.

20 Q. How many -- Strike that.

21 Do you appear in court on behalf of  
22 your clients or the foundation?

23 A. Yes.

24 Q. And how many cases do you have as an  
25 active docket?



1 A. That I am counsel of record?  
 2 Q. Correct.  
 3 A. Right now I can think of two.  
 4 Q. Do you oversee the work of others as  
 5 litigation counsel?  
 6 A. What do you mean by "oversee"?  
 7 Q. Manage.  
 8 A. I have no subordinates if that's what  
 9 you're asking.  
 10 Q. That's not what I'm asking. I'm  
 11 saying do you manage other individuals at PILF as  
 12 part of your responsibilities?  
 13 A. I'm not in a management position of  
 14 anyone else that I would say.  
 15 Q. But does it depend on the project? On  
 16 certain projects you're sort of coordinating and  
 17 managing those projects?  
 18 A. I would say that I have supervisory  
 19 responsibility on the cases of which I am counsel  
 20 of record. Others may do work that I review.  
 21 Q. And do you have supervisory  
 22 responsibility for certain reports that you're  
 23 drafting?  
 24 A. I have, yes.  
 25 Q. Have you ever made media appearances

1 on behalf of PILF?  
 2 A. Yes.  
 3 Q. Can you recall what those media  
 4 appearances are -- or were, should I say?  
 5 A. Yes.  
 6 Q. What are they?  
 7 A. I recall a radio appearance I did in  
 8 Wisconsin related to a voter ID lawsuit in I  
 9 think 2015.  
 10 I can recall an appearance on the Bret  
 11 Baier show in I believe 2017.  
 12 I don't recall any others.  
 13 Q. And that appearance on Bret Baier,  
 14 PILF depended on you to discuss the findings of  
 15 Alien Invasion II. Is that right?  
 16 A. I discussed some of the findings of  
 17 Alien Invasion II in that interview, yes.  
 18 Q. And am I correct that PILF has trusted  
 19 you to provide testimony to government bodies on  
 20 its behalf?  
 21 A. Yes, I've done that.  
 22 Q. What bodies?  
 23 A. I have appeared before the Privileges  
 24 and Elections Commission in the Virginia general  
 25 assembly; I think it was a joint session. And I

1 appeared before a committee in Pennsylvania,  
 2 although I cannot recall the name.  
 3 Q. Have you appeared before other  
 4 committees?  
 5 A. Not that I recall.  
 6 Q. I think you mentioned you supervised  
 7 the preparation of the Alien Invasion reports.  
 8 Is that right?  
 9 A. Yes.  
 10 Q. You drafted those reports?  
 11 A. The drafting was a collective effort.  
 12 Q. You wrote the first draft?  
 13 A. Yes.  
 14 Q. And you oversaw sort of finalization  
 15 of the product?  
 16 A. Yes.  
 17 Q. And PILF relied on you to have  
 18 correspondence with Virginia election officials,  
 19 correct?  
 20 A. Correct.  
 21 Q. If I asked you to describe the Public  
 22 Interest Legal Foundation, how would you describe  
 23 it?  
 24 A. Are you asking me to describe it?  
 25 Q. I said how would you describe it.

1 A. I would describe it as a 501(c)(3)  
 2 corporation that focuses on election integrity  
 3 and the preservation of the constitutional  
 4 framework under which states and the federal  
 5 government share control of elections.  
 6 Q. Would you describe it as nonpartisan?  
 7 A. Yes.  
 8 Q. Why?  
 9 A. Because it is.  
 10 Q. That's kind of conclusory. So  
 11 again --  
 12 MR. LOCKERBY: Object to the form.  
 13 Actually, there was no question to object  
 14 to. It was a gratuitous comment.  
 15 BY MR. TEPE:  
 16 Q. All right. So I asked would you  
 17 describe PILF as nonpartisan, and you answered  
 18 yes.  
 19 A. I did.  
 20 Q. And what is the basis for you saying  
 21 that PILF is nonpartisan?  
 22 A. We do not act in a partisan manner.  
 23 Q. Can you answer that question without  
 24 using the word "partisan"?  
 25 A. Our activities have been reviewed by



Page 26

1 the Internal Revenue Service, and we have been  
2 approved as a 501(c)(3) legal foundation. One of  
3 those requirements is that we do not act in a  
4 partisan manner.

5 Q. And when you say "We do not act in a  
6 partisan manner," what do you mean by that?

7 A. We do not intervene in political  
8 campaigns on the side of one partisan interest  
9 over another.

10 Q. What do you mean, "We do not intervene  
11 in political campaigns"?

12 A. We do not advocate the election or  
13 defeat of an identified candidate.

14 Q. You don't publicly advocate for the  
15 election or defeat of a particular candidate,  
16 correct?

17 MR. LOCKERBY: Object to the form of  
18 the question.

19 THE WITNESS: Correct.

20 BY MR. TEPE:

21 Q. But you privately support the election  
22 or defeat of particular candidates, correct?

23 MR. LOCKERBY: Object to the form of  
24 the question. Also it's undefined as to  
25 whether "you" means Mr. Johnson or PILF.

Page 27

1 MR. TEPE: Fair enough.

2 BY MR. TEPE:

3 Q. But PILF privately supports the  
4 election or defeat of particular candidates,  
5 correct?

6 A. No, I wouldn't say that.

7 Q. PILF works with political parties,  
8 correct?

9 MR. LOCKERBY: Object to the form.

10 THE WITNESS: Define "works with."

11 BY MR. TEPE:

12 Q. You don't know what "works with"  
13 means?

14 MR. LOCKERBY: I'm going to object to  
15 form. It's vague. It's not clear as to  
16 whether the question is directed to PILF  
17 having clients that are political parties or  
18 something else.

19 BY MR. TEPE:

20 Q. PILF coordinates with political  
21 parties on certain activities, yes?

22 MR. LOCKERBY: Object to the form.

23 THE WITNESS: No, I don't recall us  
24 coordinating with a political party on  
25 certain activities.

Page 28

1 BY MR. TEPE:

2 Q. You had mentioned before, I think,  
3 that PILF was once known as ActRight Legal  
4 Foundation.

5 A. I did mention that.

6 Q. And do you recall when PILF changed  
7 its name from ActRight Legal Foundation to Public  
8 Interest Legal Foundation?

9 A. I don't recall the exact date.

10 (Exhibit 1 marked for identification  
11 and attached hereto.)

12 MR. TEPE: The court reporter has  
13 marked as Exhibit 1 a document.

14 BY MR. TEPE:

15 Q. Do you recognize this?

16 A. It looks like my LinkedIn profile.

17 Q. And your profile has you working for  
18 ActRight Legal Foundation from 2012 to the  
19 present, right?

20 A. That's what the document says.

21 Q. Is there any distinction between  
22 ActRight Legal Foundation and Public Interest  
23 Legal Foundation in your mind?

24 A. Yes.

25 Q. And what's that distinction?

Page 29

1 A. At the time the name was changed we  
2 had some change in focus of our organizational  
3 mission, I'll call it.

4 Q. And what was that change in focus?

5 A. With ActRight Legal Foundation we were  
6 a little more -- we were a little broader in our  
7 focus on matters of public interest, and along  
8 with the name change came more of a focus on  
9 election integrity and those types of matters.

10 Q. Many of the same people who worked for  
11 ActRight Legal Foundation currently work for  
12 Public Interest Legal Foundation, correct?

13 A. Some of them do.

14 Q. Yourself is one?

15 A. I am one.

16 Q. Who else?

17 A. Kaylan Phillips. Shawna Powell. I  
18 believe those are the only employees who have --

19 Q. What about Mr. Vanderhulst?

20 A. No.

21 Q. Some of the board members are the  
22 same?

23 A. Yes.

24 Q. And in what kind of work did ActRight  
25 Legal Foundation engage in?

<p style="text-align: right;">Page 30</p> <p>1 A. I would describe it as a number of 2 matters including free speech, religious freedom. 3 Those are the only two that I can recall 4 generally speaking. Other constitutional rights. 5 Q. Was ActRight Legal Foundation involved 6 in, generally speaking, conservative causes? 7 MR. LOCKERBY: Object to the form. 8 THE WITNESS: You might say that, 9 yeah. 10 BY MR. TEPE: 11 Q. According to your profile, before 12 working for ActRight Legal Foundation you worked 13 as an attorney for the Bopp Law Firm. 14 A. Correct. 15 Q. What kind of law did the Bopp Law Firm 16 practice in at that time? 17 A. Campaign finance and First Amendment. 18 Q. It was also conservative focused -- 19 MR. LOCKERBY: Objection. 20 BY MR. TEPE: 21 Q. -- in its political leanings? 22 A. I don't consider the First Amendment 23 to be a conservative viewpoint, if that's what 24 you're asking. 25 Q. It's not what I'm asking.</p>	<p style="text-align: right;">Page 31</p> <p>1 A. I think some might characterize it 2 that way, but I don't think defense of the First 3 Amendment is conservative or liberal, if that's 4 what you mean. 5 Q. No, I'm just asking questions. 6 MR. TEPE: Can we go off the record? 7 THE VIDEOGRAPHER: We are going off 8 the record. The time is 9:29 a.m. 9 (Off the record.) 10 THE VIDEOGRAPHER: We are back on the 11 record. The time is 9:30 a.m. 12 (Exhibit 2 marked for identification 13 and attached hereto.) 14 BY MR. TEPE: 15 Q. The court reporter is handing you a 16 document marked Exhibit 2. 17 Do you recognize this document? 18 A. Is it the whole stack or just the top 19 page? 20 Q. The whole stack. 21 A. Yes, I've seen this before. 22 Q. This is an e-mail that begins with an 23 e-mail from Rizwana Ahmad with the Prince William 24 County election office. Is that right? 25 A. The bottom e-mail on the first page,</p>
<p style="text-align: right;">Page 32</p> <p>1 that's correct. 2 Q. And he sent this e-mail on August 16, 3 2016, to PILF. Is that right? 4 A. Correct. 5 Q. And was this sent to PILF's general 6 e-mail mailbox? 7 A. It looks like it was sent to the 8 contact e-mail at the foundation. 9 Q. And then you forwarded that on to some 10 other folks at PILF, correct? 11 A. Correct. 12 Q. Let me direct your attention to one of 13 the attachments to the e-mail. If you go to the 14 document with the Bates number 9067. 15 Do you recognize this document? 16 A. I've seen it before. 17 Q. And it's a letter drafted to the 18 Prince William registrar. Is that correct? 19 A. It does say it's to the general 20 registrar, Michele White, and that it was 21 received by the Prince William County registrar 22 and elections office. 23 Q. So date of this letter is August 8th? 24 A. Yes. 25 Q. It's signed by Shawna Powell. Is that</p>	<p style="text-align: right;">Page 33</p> <p>1 right? 2 A. Yes. 3 Q. And she's the secretary of PILF? 4 A. Yes. 5 Q. And that's like an officer position, 6 correct? 7 A. I believe so. 8 Q. You were involved in the drafting of 9 this letter, correct? 10 A. I think I was, yes. 11 Q. So the letter starts by saying: "I am 12 writing on behalf of the Public Interest Legal 13 Foundation to request inspection of records 14 related to your office's voter list maintenance 15 obligations under the National Voter Registration 16 Act of 1993." 17 Do you see that? 18 A. I see that. 19 Q. And the National Voter Registration 20 Act is commonly known as the NVRA? 21 A. Yes. 22 Q. And two paragraphs below that the 23 letter explains: "The NVRA requires your office 24 to make available for public inspection all 25 records concerning the implementation of programs</p>

<p style="text-align: right;">Page 34</p> <p>1 and activities conducted for the purpose of  2 ensuring the accuracy and currency of official  3 lists of eligible voters." Correct?  4 A. That's what the -- that's what this  5 letter says, yes.  6 Q. And then pursuant to this section of  7 the NVRA, PILF makes a records request of Prince  8 William County, correct?  9 A. Correct.  10 Q. And the first request is for, quote,  11 documents regarding all registrants who are  12 identified as potentially not satisfying the  13 citizenship requirements for registration.  14 Correct?  15 A. That's part of the first sentence,  16 yes.  17 Q. It goes on "from any information  18 source including the Department of Motor Vehicles  19 and the State Board of Elections." Correct?  20 A. Correct.  21 Q. This request doesn't ask for who were  22 determined by Prince William County to be  23 noncitizens, does it?  24 MR. LOCKERBY: Object to the form.  25 The document speaks for itself.</p>	<p style="text-align: right;">Page 35</p> <p>1 THE WITNESS: I think that's one thing  2 that is responsive to this request.  3 BY MR. TEPE:  4 Q. That wasn't the question I was asking.  5 I was asking this request does not seek a list of  6 registrants who were determined by Prince William  7 County to be noncitizens, does it?  8 MR. LOCKERBY: Objection; asked and  9 answered.  10 THE WITNESS: I think it does.  11 BY MR. TEPE:  12 Q. How so?  13 A. A record showing those that they  14 determined not to be citizens would be responsive  15 to the request.  16 Q. And so would a list of individuals  17 who, as is stated here in the record, are  18 potentially not satisfying the citizenship  19 requirements. True?  20 A. That would also be responsive, I  21 think, yes.  22 Q. Where did the idea for this request  23 come from?  24 A. I don't recall.  25 Q. Well, you drafted this letter,</p>
<p style="text-align: right;">Page 36</p> <p>1 correct, a version of it at least?  2 A. Again, I think I did.  3 Q. Do you recall why you were drafting  4 this letter?  5 A. To obtain the records we requested.  6 Q. And why were you seeking these  7 records?  8 A. We were exploring the extent of  9 noncitizen registration in Virginia.  10 Q. Were you looking for a particular  11 record?  12 A. At this time, I'm not sure. We were  13 looking for the records that are described or  14 that are requested, whatever the registrar may  15 have.  16 Q. Similar letters were sent to other  17 jurisdictions in Virginia, correct?  18 A. Correct.  19 Q. If you flip to the previous two pages  20 with the number on the bottom of 9065. Do you  21 see that?  22 A. I see it.  23 Q. And this is a letter back from the  24 Prince William County Office of Elections in  25 response to your PILF's August 8th letter,</p>	<p style="text-align: right;">Page 37</p> <p>1 correct?  2 A. That's what it says, yes.  3 Q. And in the second paragraph it says:  4 "You have requested the inspection of records  5 related to voter maintenance, especially those  6 identified as potentially not satisfying the  7 citizenship requirements for registration."  8 Correct?  9 A. Correct.  10 Q. And the end of that, that's PILF's  11 language from the previous August 8th letter,  12 correct?  13 A. Yeah. It's not verbatim but it's --  14 Q. But you used the same "potentially not  15 satisfying the citizenship requirements"?  16 A. It does, yes.  17 Q. And then in the next paragraph Prince  18 William states: "In response to your information  19 request, I am providing a PDF of Prince William  20 cancellation - declared noncitizen list dating  21 back from January 1, 2011, to the present date."  22 Is that right?  23 A. Correct.  24 Q. Is there anything in this letter that  25 states that people in the list that they were</p>

<p style="text-align: right;">Page 38</p> <p>1 providing were determined by Prince William 2 County to not be U.S. citizens? 3 MR. LOCKERBY: Object to the form. 4 The document speaks for itself. 5 THE WITNESS: Yes. 6 BY MR. TEPE: 7 Q. Where is that language? 8 A. The second paragraph says that she is 9 providing a PDF of Prince William County 10 cancellation - declared noncitizen. 11 Q. No. I asked -- my question was is 12 there anything in this letter that states that 13 people in the list that they were providing, 14 which is what you just mentioned, were determined 15 by Prince William County to not be U.S. citizens? 16 MR. LOCKERBY: Object to the form. 17 Asked and answered. The fact that counsel 18 doesn't like the answer doesn't mean he is 19 entitled to ask the question over and over 20 again. 21 BY MR. TEPE: 22 Q. You can answer. 23 A. Yes. It says declared noncitizen. 24 Q. Declared by whom? 25 A. The letter does not say.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. So you have made some interpretations 2 as to what this list shows, correct? 3 MR. LOCKERBY: Object to the form. 4 THE WITNESS: The letter -- the 5 language speaks for itself. They were 6 declared noncitizen. 7 BY MR. TEPE: 8 Q. Again, the question was declared by 9 whom? Not Prince William County, correct? 10 MR. LOCKERBY: Object to the form. 11 THE WITNESS: It does not say that 12 Prince William County did not declare them, 13 no. 14 BY MR. TEPE: 15 Q. And it doesn't say that Prince William 16 County did declare them noncitizens, does it? 17 A. Well, it does say declared noncitizen. 18 Q. Right. 19 A. It being a record of Prince William 20 County, yes, I would interpret that to mean 21 Prince William County or the registrant 22 themselves have declared them a noncitizen. 23 Either way -- 24 Q. And do you know how they did this 25 declaration?</p>
<p style="text-align: right;">Page 40</p> <p>1 A. I'm not sure of the question you're 2 asking. 3 Q. Well, you just said that you're 4 interpreting from the three words -- or actually 5 it's two words, "declared noncitizen," that 6 Prince William County made a determination that 7 these individuals on the list were noncitizens. 8 And I'm asking you, to your knowledge, how did 9 they go about making this determination? 10 A. Well, what I said was either Prince 11 William County or the registrant themselves who 12 appears in the list has made the declaration. 13 Q. And I'm asking you again, how did they 14 go about doing that? 15 A. As I understand it, the way the list 16 is compiled, it is a list of people who indicated 17 at the DMV that they are not a citizen, under 18 oath. The DMV compiles a list of those 19 individuals, transmits it to the Department of 20 Elections, who then transmits it to the county 21 election offices. Their registrations are then 22 canceled based on either a declaration under oath 23 by the registrants themselves. 24 Q. Under this process, isn't it correct 25 that the registrants who are canceled can provide</p>	<p style="text-align: right;">Page 41</p> <p>1 an affirmation that says actually yes, I am truly 2 a citizen? 3 A. I believe the law requires the county 4 election official to send them an affirmation for 5 them to sign. 6 Q. Right. And if they receive that 7 affirmation within two weeks, then they're not 8 canceled from the rolls? 9 MR. LOCKERBY: Object to the form of 10 the question. 11 THE WITNESS: If who receives it in 12 two weeks? 13 BY MR. TEPE: 14 Q. The registrar. 15 A. I understand if it is returned by the 16 registrant with a signature declaring -- 17 affirming that they are in fact a citizen, the 18 registrar is not supposed to cancel their 19 registration. 20 Q. And in the process that you just 21 outlined, there was no investigation by Prince 22 William County into whether or not these people 23 are citizens. Is that right? 24 MR. LOCKERBY: Object to the form. 25 THE WITNESS: The investigation would</p>

<p style="text-align: right;">Page 42</p> <p>1 be reviewing the list sent to them by the  2 Department of Elections of all people who  3 indicated at the Department of Motor  4 Vehicles under oath that they are not a  5 citizen. So yes, they have investigated the  6 matter.  7 BY MR. TEPE:  8 Q. So they receive a list and then they  9 send out a mailer, correct?  10 MR. LOCKERBY: Object to the form.  11 Asked and answered. Misstates the witness's  12 prior testimony.  13 THE WITNESS: If by "mailer" you mean  14 the affirmation of citizenship, then that is  15 sent -- supposed to be sent to everyone on  16 that list.  17 BY MR. TEPE:  18 Q. And -- now, how do you get onto the  19 voter registration rolls to begin with?  20 A. Where?  21 Q. In Virginia.  22 A. There are a number of ways, as I  23 understand it.  24 Q. You have to file -- fill out a voter  25 registration application, correct?</p>	<p style="text-align: right;">Page 43</p> <p>1 A. I'm not completely familiar with the  2 law, but yes, I believe that's one way.  3 Q. How else do you get onto the voter  4 rolls in Virginia?  5 A. I don't know of any other way.  6 Q. And so when you fill out that voter  7 registration application, there is a question as  8 to whether or not you are a U.S. citizen,  9 correct?  10 A. There is supposed to be, yes.  11 Q. And there is -- to your knowledge,  12 there is one?  13 A. Yes.  14 Q. And so those individuals who check  15 "Yes" are supposed to then, assuming the rest of  16 the application is fine, go on the voter rolls,  17 correct?  18 A. If they are otherwise eligible, yes.  19 Q. And that affirmation of citizenship at  20 the beginning is also under oath, correct?  21 A. Correct.  22 Q. But then as you understand it and as  23 you just described, there is at some point some  24 contrary information about citizenship that is  25 provided to the DMV that is then transmitted to</p>
<p style="text-align: right;">Page 44</p> <p>1 election officials that triggers this notice of  2 potential cancellation. Is that right?  3 A. The process you described sounds  4 right, yes.  5 Q. So let's just briefly look at the PDF  6 that Prince William County sent a couple of pages  7 later. Do you see that?  8 A. Starting on 9070?  9 Q. Correct.  10 A. Yes, I'm there.  11 Q. And this is a form that has listed at  12 the top "Cancellation - Declared Noncitizen"  13 underneath Prince William County, correct?  14 A. Correct.  15 Q. And there is a list of individuals  16 with their home addresses. Is that right?  17 A. Correct.  18 Q. Their voter registration ID?  19 A. Correct.  20 Q. A date of cancellation?  21 A. Correct.  22 Q. And a column called "Canceled Type"?  23 A. Correct.  24 Q. And that's where it says declared  25 noncitizen, right?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. It says that under "Canceled Type" as  2 well as two other places.  3 Q. And there are other cancel types in  4 the records maintained by Virginia election  5 officials, correct?  6 A. Correct.  7 Q. There's like mentally incapacitated,  8 correct?  9 A. That's one type, yes.  10 Q. Are you aware of some other types of  11 cancellations?  12 A. Yes.  13 Q. What are some of the other ones?  14 A. Deceased. They are canceled if they  15 die.  16 They are canceled if they move out of  17 the jurisdiction.  18 I believe they're canceled if they  19 request cancellation.  20 Q. So there are a variety of cancel  21 types?  22 A. Yes.  23 Q. And on this list from Prince William  24 County there are 433 names. Is that right?  25 A. On page 9098 it says that declared</p>



<p style="text-align: right;">Page 46</p> <p>1 noncitizen total is 433. But I did not count the  2 number of names.  3 Q. And it's for the period January 1,  4 2011, through August 16, 2016. Is that right?  5 A. That's what it purports to be.  6 Q. When PILF received this list from  7 Prince William County, do you recall if people at  8 PILF were happy?  9 MR. LOCKERBY: Object to the form of  10 the question.  11 THE WITNESS: I don't recall.  12 BY MR. TEPE:  13 Q. Do you recall anyone saying in  14 response that "You hit pay dirt"?  15 A. I can't say for sure if I recall that,  16 no.  17 (Exhibit 3 marked for identification  18 and attached hereto.)  19 THE WITNESS: Are you all done with  20 this one?  21 BY MR. TEPE:  22 Q. I think so. You can put it aside.  23 The court reporter has handed you a  24 document marked as Exhibit 3 with the Bates  25 number 46537. Do you see that?</p>	<p style="text-align: right;">Page 47</p> <p>1 A. I see that.  2 Q. Do you recognize this document?  3 A. I don't recognize it, but I think I've  4 seen it before.  5 Q. Okay. But this is an e-mail from  6 Public Interest Legal Foundation, correct, this  7 e-mail chain?  8 A. Yes.  9 Q. And it shows that from the previous  10 e-mail from Prince William County, that was  11 forwarded by you to a number of folks at PILF,  12 correct? On August 16th?  13 A. At 4:42?  14 Q. Correct.  15 A. Yes, I see that.  16 Q. And then at the top of the chain  17 Mr. Adams responds to you, copying some other  18 folks at PILF on the same day at 6:05 p.m.: "As  19 you saw, David Norcross said we hit pay dirt."  20 Do you see that?  21 A. I see that.  22 Q. Who is David Norcross?  23 A. He's currently a foundation board  24 member.  25 Q. Was he on the board at this time?</p>
<p style="text-align: right;">Page 48</p> <p>1 A. I don't believe so.  2 Q. Do you recall Mr. Norcross saying "We  3 hit pay dirt"?  4 A. I don't recall him saying that.  5 Q. Do you recall a conversation with  6 Mr. Norcross between the time that Prince William  7 County sent over these records at 3:13 p.m. and  8 the time of this e-mail at 6:05 p.m.?  9 A. I don't recall that conversation.  10 Q. What did you understand, when you saw  11 this e-mail, David Norcross to be saying?  12 MR. LOCKERBY: Object to the form. I  13 would ask that it be identified on the  14 record where the e-mail from David Norcross  15 is in this document.  16 THE WITNESS: I don't recall David  17 Norcross saying that previously in a  18 conversation with me.  19 BY MR. TEPE:  20 Q. But Mr. Adams did write here: "As you  21 saw, David Norcross said we've hit pay dirt."  22 Correct?  23 A. I see that, yes.  24 Q. Do you have any reason to believe that  25 Mr. Adams was incorrect?</p>	<p style="text-align: right;">Page 49</p> <p>1 A. No.  2 Q. You don't know what Norcross meant by  3 saying "We've hit pay dirt"?  4 A. I don't know what he meant, no.  5 Q. Were other people at PILF pleased with  6 receiving this record from Prince William County?  7 A. I'm not recalling any expressions of  8 pleasure.  9 Q. Were you happy?  10 A. I was happy that they responded to our  11 records request, yes.  12 Q. You had mentioned earlier that the  13 August 8th letter that we saw had been sent to  14 other jurisdictions, correct?  15 A. I believe so, yeah.  16 Q. And other jurisdictions, at least some  17 of them, provided responses, correct?  18 A. They did, yes.  19 (Exhibit 4 marked for identification  20 and attached hereto.)  21 BY MR. TEPE:  22 Q. The court reporter has marked for  23 identification this document as Exhibit 4 with  24 the Bates number beginning 8775. Do you see  25 that?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. I see it.</p> <p>2 Q. Do you recognize this document?</p> <p>3 A. I do.</p> <p>4 Q. What do you recognize it to be?</p> <p>5 A. It's an e-mail chain including a</p> <p>6 conversation with the general registrar in</p> <p>7 Bedford County, Virginia, and a subsequent e-mail</p> <p>8 between members of the foundation. At least the</p> <p>9 top e-mail.</p> <p>10 Q. So let's begin with the initial</p> <p>11 e-mail. It's an e-mail from Barbara Gunter,</p> <p>12 correct?</p> <p>13 A. I see that, yes.</p> <p>14 Q. Director of elections, general</p> <p>15 registrar for Bedford County, Virginia?</p> <p>16 A. Correct.</p> <p>17 Q. And she says -- and this is dated</p> <p>18 August 18th. She says: "I am responding to a</p> <p>19 letter dated August 8, 2016, from Shawna Powell,</p> <p>20 secretary of PILF." Right?</p> <p>21 A. Correct.</p> <p>22 Q. She then states: "Her letter requests</p> <p>23 information pertaining to registrants identified</p> <p>24 as potentially not satisfying the citizenship</p> <p>25 requirements for registration." Correct?</p>	<p style="text-align: right;">Page 51</p> <p>1 A. I see that. That's correct.</p> <p>2 Q. And then in her e-mail she lists</p> <p>3 basically the descriptions of the documents that</p> <p>4 she's sending over, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Let's look at one of these documents.</p> <p>7 If you go to the Bates number 8777. It's a</p> <p>8 notice of intent to cancel.</p> <p>9 A. I see it.</p> <p>10 Q. And is this the notification that you</p> <p>11 were referring to earlier in your testimony after</p> <p>12 receiving some information from the DMV?</p> <p>13 A. Yes.</p> <p>14 Q. And so it states here: "We have</p> <p>15 received" -- it's addressed to an individual</p> <p>16 voter, correct?</p> <p>17 A. Correct.</p> <p>18 Q. It says: "We have received</p> <p>19 information that you indicated on a recent DMV</p> <p>20 application that you were not a citizen of the</p> <p>21 United States. If the information provided was</p> <p>22 correct, you are not eligible to register to</p> <p>23 vote."</p> <p>24 You see that, right?</p> <p>25 A. I see that.</p>
<p style="text-align: right;">Page 52</p> <p>1 Q. It continues: "If the information is</p> <p>2 incorrect and you are a citizen of the United</p> <p>3 States, please complete the affirmation of</p> <p>4 citizenship form and return it using the enclosed</p> <p>5 envelope."</p> <p>6 Do you see that?</p> <p>7 A. I see it.</p> <p>8 Q. So you would agree that election</p> <p>9 officials contemplate mistakes being made on the</p> <p>10 DMV application, correct?</p> <p>11 MR. LOCKERBY: Object to the form.</p> <p>12 THE WITNESS: I think the record</p> <p>13 speaks for itself. I don't know what the</p> <p>14 registrar herself was thinking.</p> <p>15 BY MR. TEPE:</p> <p>16 Q. Well, you would interpret providing</p> <p>17 this option to provide an affirmation of</p> <p>18 citizenship that perhaps the information from the</p> <p>19 DMV is not accurate, correct?</p> <p>20 A. Right. It's asking the recipient if</p> <p>21 the information they provided at DMV is correct.</p> <p>22 Q. And it might not be correct at the</p> <p>23 DMV?</p> <p>24 A. It's a possibility that it's not</p> <p>25 correct.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Because why else would you provide</p> <p>2 this option if there wasn't that possibility,</p> <p>3 correct?</p> <p>4 MR. LOCKERBY: Object to the form.</p> <p>5 THE WITNESS: Well, this is a</p> <p>6 requirement of the law. I don't know the</p> <p>7 purpose behind it.</p> <p>8 BY MR. TEPE:</p> <p>9 Q. It then says: "If you do not respond</p> <p>10 within 14 days, you will be removed from the list</p> <p>11 of registered voters." Correct?</p> <p>12 A. It says that, correct.</p> <p>13 Q. And that's what we had discussed</p> <p>14 before. You said that there will be a period of</p> <p>15 time that if you don't get the affirmation in,</p> <p>16 you'll be canceled, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Now, Ms. Gunter also provided PILF</p> <p>19 with voter registration cancellation notices sent</p> <p>20 to individual voters, correct?</p> <p>21 A. Could you identify them for me?</p> <p>22 Q. Yeah. Let's go to -- we'll go to</p> <p>23 8838.</p> <p>24 A. Okay, I see that.</p> <p>25 Q. So the previous document we looked at</p>



<p style="text-align: right;">Page 54</p> <p>1 was a notice of intent to cancel, right?</p> <p>2 A. Correct.</p> <p>3 Q. And the process we just processed, if</p> <p>4 you don't get the affirmation in within 14 days,</p> <p>5 the registrar can then cancel the voter from the</p> <p>6 rolls, correct?</p> <p>7 A. If the notice of intent -- or the</p> <p>8 affirmation is not returned in 14 days, the</p> <p>9 registrar can cancel them.</p> <p>10 Q. And this has a title of "Voter</p> <p>11 Registration Cancellation Notice," correct?</p> <p>12 A. Correct.</p> <p>13 Q. And this was -- this particular one</p> <p>14 was directed to Kevin Christopher Moser?</p> <p>15 A. Correct.</p> <p>16 Q. And the voter registration notice</p> <p>17 states that this office has canceled Mr. Moser's</p> <p>18 voter registration, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And it states that this action was</p> <p>21 taken because Mr. Moser, quote, failed to timely</p> <p>22 respond to a request to affirm United States</p> <p>23 citizenship within 14 days as allowed by the Code</p> <p>24 of Virginia, correct?</p> <p>25 A. That's not all it says but that is</p>	<p style="text-align: right;">Page 55</p> <p>1 language in this notice.</p> <p>2 Q. Well, it provides the code cite,</p> <p>3 right?</p> <p>4 A. Well, you didn't read "on the basis of</p> <p>5 official notification from the Virginia</p> <p>6 Department of Elections."</p> <p>7 Q. That "you have failed to timely</p> <p>8 respond to a request to affirm United States</p> <p>9 citizenship"?</p> <p>10 A. It says that, yes.</p> <p>11 Q. Now, do you see the handwritten</p> <p>12 notation in the upper right-hand corner?</p> <p>13 A. Yes.</p> <p>14 Q. It says "reregistered" I think</p> <p>15 September -- the handwriting is a little vague --</p> <p>16 September 29 of 2011.</p> <p>17 A. That's what it looks like, yes.</p> <p>18 Q. So it's possible for voters whose</p> <p>19 registrations were canceled to reregister,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And if you go back to the cover e-mail</p> <p>23 from Ms. Gunter, she states -- if you go to, I</p> <p>24 guess, number 3.</p> <p>25 A. I see number 3.</p>
<p style="text-align: right;">Page 56</p> <p>1 Q. She states in the last sentence: "I</p> <p>2 have noted on the voter cancellation forms if the</p> <p>3 voter responded after the 14-day window and</p> <p>4 reregistered either in Bedford County or some</p> <p>5 other locality." Correct?</p> <p>6 A. That's what it says, yes.</p> <p>7 Q. Do you have any basis to believe that</p> <p>8 Mr. Moser didn't reregister?</p> <p>9 A. I don't have any basis to believe that</p> <p>10 he didn't reregister.</p> <p>11 Q. And when he reregistered, he would</p> <p>12 have had to affirm his U.S. citizenship, correct?</p> <p>13 A. That's a requirement that he do that.</p> <p>14 I have no basis to believe that he did or did</p> <p>15 not.</p> <p>16 MR. LOCKERBY: When we get to a</p> <p>17 convenient stopping point, could we take a</p> <p>18 break? Among other things we owe an answer</p> <p>19 on something. We need to confirm that.</p> <p>20 MR. TEPE: Yeah, we'll take a break in</p> <p>21 a short little while.</p> <p>22 BY MR. TEPE:</p> <p>23 Q. One of the other records that</p> <p>24 Ms. Gunter provided is a copy of that</p> <p>25 cancellation report, correct? If you go to</p>	<p style="text-align: right;">Page 57</p> <p>1 document with the Bates 8933.</p> <p>2 A. I'm looking at that page.</p> <p>3 Q. And this is the same type of report</p> <p>4 that Prince William County provided, correct?</p> <p>5 A. It is.</p> <p>6 Q. And it lists 35 people, correct?</p> <p>7 A. Right. The total at the bottom of the</p> <p>8 list says 35.</p> <p>9 Q. And this number 35 made it into Alien</p> <p>10 Invasion I, correct? Do you recall?</p> <p>11 A. When you say "made it in," what do you</p> <p>12 mean?</p> <p>13 Q. It was referenced in Alien Invasion I,</p> <p>14 correct?</p> <p>15 A. Yes, it was.</p> <p>16 Q. I'm going to hand you another version</p> <p>17 of this exhibit because I would like you to mark</p> <p>18 it up. Do you have a pen?</p> <p>19 A. I can get one.</p> <p>20 Q. I'm trying to find the right page to</p> <p>21 direct you to.</p> <p>22 Can you take a look at that document</p> <p>23 and confirm for me that's a copy -- another copy</p> <p>24 of Exhibit 4?</p> <p>25 I tell you what, why don't you go in</p>

<p style="text-align: right;">Page 58</p> <p>1 the exhibit that's already been marked to that</p> <p>2 Bates number which is for Mr. Lee's notice. Do</p> <p>3 you see that?</p> <p>4 A. 8832?</p> <p>5 Q. 8832, correct.</p> <p>6 Now, in the new document that I just</p> <p>7 handed you, why don't you flip to the</p> <p>8 cancellation report that we were just looking at.</p> <p>9 MR. LOCKERBY: What's the Bates number</p> <p>10 on that?</p> <p>11 MR. TEPE: I believe it's 8933.</p> <p>12 BY MR. TEPE:</p> <p>13 Q. I'm going to ask you to check off some</p> <p>14 of the names in that cancellation list. Okay?</p> <p>15 A. Okay.</p> <p>16 Q. All right. So we're going to flip</p> <p>17 through in Exhibit 4 these voter registration</p> <p>18 cancellation notices.</p> <p>19 So the first one here we see under --</p> <p>20 on Bates 8832 is for Mr. Lee. Is that right?</p> <p>21 A. Yes.</p> <p>22 Q. There is a handwritten notation that</p> <p>23 he reregistered, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Do you want to check off his name?</p>	<p style="text-align: right;">Page 59</p> <p>1 Just put a little checkmark in front of his name</p> <p>2 on the document.</p> <p>3 A. (Witness complies.)</p> <p>4 Q. And let's flip through a few pages to</p> <p>5 8838. You see Mr. Moser, correct?</p> <p>6 A. I see his name on this page.</p> <p>7 Q. And a handwritten notation that he</p> <p>8 reregistered, correct?</p> <p>9 A. I see that.</p> <p>10 Q. Can you check off his name on the</p> <p>11 cancellations.</p> <p>12 A. (Witness complies.)</p> <p>13 Q. We're going to go really through this</p> <p>14 whole attachment doing the same thing. So if you</p> <p>15 would flip through to the next person that you</p> <p>16 see as having reregistered. I see Jon Guida.</p> <p>17 A. I see his name.</p> <p>18 MR. LOCKERBY: What's the Bates number</p> <p>19 on that?</p> <p>20 MR. TEPE: 8847.</p> <p>21 BY MR. TEPE:</p> <p>22 Q. Do you see the handwritten notation</p> <p>23 that he reregistered, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Do you want to check off his name on</p>
<p style="text-align: right;">Page 60</p> <p>1 the cancellation list?</p> <p>2 A. (Witness complies.)</p> <p>3 Q. A couple of pages later, 8850,</p> <p>4 Michelle Cabaniss. Do you see the notation that</p> <p>5 she reregistered?</p> <p>6 A. Yes.</p> <p>7 Q. Do you want to check off her name?</p> <p>8 A. (Witness complies.)</p> <p>9 Q. A few pages later, 8856, Michael</p> <p>10 Harmon.</p> <p>11 A. I see his name.</p> <p>12 Q. And a notation that he reregistered,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Do you want to check off his name on</p> <p>16 the cancellation list?</p> <p>17 A. (Witness complies.)</p> <p>18 Q. 8859. Patricia Scoville. Do you see</p> <p>19 the notation that she --</p> <p>20 A. I see her name.</p> <p>21 Q. -- that she reregistered?</p> <p>22 A. Yes.</p> <p>23 Q. Do you want to check her name off?</p> <p>24 A. (Witness complies.)</p> <p>25 Q. A couple of pages later, 8862, Billy</p>	<p style="text-align: right;">Page 61</p> <p>1 Agee. You see a notation that he reregistered,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. Could you please check his name.</p> <p>5 A. (Witness complies.)</p> <p>6 Q. A few pages later, 8865. Marie</p> <p>7 Toussaint.</p> <p>8 A. I see her name.</p> <p>9 Q. And it indicates in a handwritten</p> <p>10 notation that she reregistered, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Check her name off.</p> <p>13 A. (Witness complies.)</p> <p>14 Q. Go to 8871. Justin Dunkley. Do you</p> <p>15 see that?</p> <p>16 A. I see his name.</p> <p>17 Q. And on the cancellation notice is a</p> <p>18 handwritten notation that Mr. Dunkley</p> <p>19 reregistered, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you mind checking his name off.</p> <p>22 A. (Witness complies.)</p> <p>23 Q. 8874. Teresa Wright. Do you see</p> <p>24 that?</p> <p>25 A. Yes.</p>

Page 62

Page 63

1 Q. The notation is that she reregistered,  
2 correct?  
3 A. Correct.  
4 Q. Do you want to check her name off?  
5 A. (Witness complies.)  
6 Q. 8877. Phillip McGuire?  
7 A. I see his name.  
8 Q. A notation that he reregistered,  
9 correct?  
10 A. Yes.  
11 Q. Check his name off.  
12 A. (Witness complies.)  
13 Q. A couple of pages later, 8880.  
14 Mr. Tomlinson. Do you see his name?  
15 A. I see his name.  
16 Q. And a notation that he reregistered?  
17 A. Correct.  
18 Q. Do you want to check his name off?  
19 A. (Witness complies.)  
20 Q. A few pages later, 8883. Michael  
21 Huddleston, II?  
22 A. I see his name.  
23 Q. You notice that he -- a notation that  
24 he reregistered, correct?  
25 A. Correct.

1 Q. You can check his name off.  
2 A. (Witness complies.)  
3 Q. Go to 8889. Scott Wilson. Do you see  
4 his name?  
5 A. I see his name.  
6 Q. And a handwritten notation that he  
7 reregistered, correct?  
8 A. Correct.  
9 Q. Can you check his name off?  
10 A. (Witness complies.)  
11 Q. A couple of pages later, 8892. Evelyn  
12 Garcia.  
13 A. I see her name.  
14 Q. A notation that she reregistered?  
15 A. Yes.  
16 Q. Check her name off, please.  
17 A. (Witness complies.)  
18 Q. If you go to 8898. Peggy Musselman.  
19 A. I see her name.  
20 Q. A notation that she reregistered?  
21 A. Correct.  
22 Q. Can you check her name off, please?  
23 A. (Witness complies.)  
24 Q. 8901. James Moore.  
25 A. I see his name.

Page 64

Page 65

1 Q. And on the cancellation notice, a  
2 handwritten notation that he reregistered,  
3 correct?  
4 A. Correct.  
5 Q. Can you check his name off?  
6 A. (Witness complies.)  
7 Q. Can you go to 8924. Benjamin Fisher.  
8 A. I see his name.  
9 Q. And also the handwritten notation that  
10 Mr. Fisher reregistered, correct?  
11 A. Correct.  
12 Q. Can you check his name off?  
13 A. (Witness complies.)  
14 Q. Okay. So let's look at the  
15 cancellation list that you used in Alien Invasion  
16 I. You have Mr. Douglas checked off, correct?  
17 A. I placed an X next to his name.  
18 Q. Moser?  
19 A. Correct.  
20 Q. Guida?  
21 A. Yes.  
22 Q. Cabaniss?  
23 A. Yes.  
24 Q. Harmon?  
25 A. Yes.

1 Q. Scoville?  
2 A. Yes.  
3 Q. Agee?  
4 A. Yes.  
5 Q. Toussaint?  
6 A. Yes.  
7 Q. Dunkley?  
8 A. Yes.  
9 Q. Wright?  
10 A. Yes.  
11 Q. McGuire?  
12 A. Yes.  
13 Q. Tomlinson?  
14 A. Yes.  
15 Q. Huddleson?  
16 A. Yes.  
17 Q. Wilson?  
18 A. Yes.  
19 Q. Garcia?  
20 A. Yes.  
21 Q. Musselman?  
22 A. Yes.  
23 Q. Moore?  
24 A. Yes.  
25 Q. Fisher?

<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. How many names is that?</p> <p>3 A. Would you like me to count them?</p> <p>4 Q. Please.</p> <p>5 A. I believe that's 18 by my count.</p> <p>6 Q. It's a little bit more than half of</p> <p>7 the total of 35 on the list, correct?</p> <p>8 A. That math adds up.</p> <p>9 Q. So as of this date of August 18, 2016,</p> <p>10 PILF was aware that 35 of these individuals had</p> <p>11 reregistered, correct?</p> <p>12 A. No, not 35.</p> <p>13 Q. I'm sorry. Let me try that again.</p> <p>14 So as of this date, August 18, 2016,</p> <p>15 PILF was aware that 18 of these individuals had</p> <p>16 reregistered, correct?</p> <p>17 A. There's -- right, there is the</p> <p>18 designations on these cancellation notices that</p> <p>19 they reregistered.</p> <p>20 Q. And you have no basis to believe that</p> <p>21 those notations are incorrect, correct?</p> <p>22 A. No.</p> <p>23 Q. Did you -- Strike that.</p> <p>24 In Alien Invasion I, was there any</p> <p>25 notation that the 35 people referenced in that</p>	<p style="text-align: right;">Page 67</p> <p>1 report, of that 35, 18 had reregistered?</p> <p>2 A. I don't think so.</p> <p>3 MR. TEPE: We can go off the record.</p> <p>4 MR. LOCKERBY: Great. Thank you.</p> <p>5 THE VIDEOGRAPHER: We are going off</p> <p>6 the record. The time is 10:18 a.m.</p> <p>7 (Recess taken.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record. The time is 10:40 a.m.</p> <p>10 BY MR. TEPE:</p> <p>11 Q. Mr. Johnson, just a housekeeping item.</p> <p>12 The document we just marked up, can you</p> <p>13 reassemble that?</p> <p>14 A. I think this was it.</p> <p>15 Q. Yeah.</p> <p>16 A. Now I'm confused. That's in the</p> <p>17 previous exhibit.</p> <p>18 Q. Yeah, that's right. That's got your</p> <p>19 notations, right? Yes. Okay.</p> <p>20 MR. TEPE: All right. So we're going</p> <p>21 to mark this -- I believe we're up to</p> <p>22 Exhibit 5.</p> <p>23 (Exhibit 5 marked for identification</p> <p>24 and attached hereto.)</p> <p>25 BY MR. TEPE:</p>
<p style="text-align: right;">Page 68</p> <p>1 Q. Earlier you testified, Mr. Johnson,</p> <p>2 that you are kind of responsible for overseeing</p> <p>3 the production of the Alien Invasion reports,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. Who came up with the idea to write</p> <p>7 this report, specifically Alien Invasion I?</p> <p>8 A. I think the idea for a report was</p> <p>9 Mr. Adams'.</p> <p>10 Q. Who decided to call the report Alien</p> <p>11 Invasion?</p> <p>12 A. I think Mr. Adams suggested the name,</p> <p>13 but I'm not 100 percent sure.</p> <p>14 Q. Was PILF trying to suggest that</p> <p>15 Virginia was being invaded?</p> <p>16 MR. LOCKERBY: Object to the form.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. TEPE:</p> <p>19 Q. Do you know the thinking behind</p> <p>20 calling the report Alien Invasion?</p> <p>21 MR. LOCKERBY: Object to the form.</p> <p>22 THE WITNESS: It was satire.</p> <p>23 BY MR. TEPE:</p> <p>24 Q. How do you know?</p> <p>25 A. That's my recollection of the process</p>	<p style="text-align: right;">Page 69</p> <p>1 by which it was created.</p> <p>2 Q. Did Mr. Adams tell you that this was a</p> <p>3 satirical title?</p> <p>4 A. Specifically in that language, no.</p> <p>5 Q. So PILF was trying to use the term</p> <p>6 "invasion" but not actually suggest an invasion?</p> <p>7 MR. LOCKERBY: Object to the form.</p> <p>8 THE WITNESS: Not a literal invasion</p> <p>9 as you would understand that word typically.</p> <p>10 BY MR. TEPE:</p> <p>11 Q. You wrote the first draft of Alien</p> <p>12 Invasion I, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Do you recall how long it took you to</p> <p>15 draft the report from the first draft to</p> <p>16 publication?</p> <p>17 A. I don't recall.</p> <p>18 (Exhibit 6 marked for identification</p> <p>19 and attached hereto.)</p> <p>20 BY MR. TEPE:</p> <p>21 Q. The court reporter has just marked as</p> <p>22 Exhibit 6 a document. Do you recognize it?</p> <p>23 A. I've seen it before, yes.</p> <p>24 Q. And what is it?</p> <p>25 A. The first page is an e-mail that I</p>

<p style="text-align: right;">Page 70</p> <p>1 sent to myself on September 23, 2016.</p> <p>2 Q. And there is an attachment -- two</p> <p>3 attachments, correct?</p> <p>4 A. There are two attachments.</p> <p>5 Q. One is a draft, a first draft it looks</p> <p>6 like, of the Alien Invasion, correct?</p> <p>7 A. It looks like a draft, yes.</p> <p>8 Q. And then the second document that says</p> <p>9 "Notes for report."</p> <p>10 A. Correct.</p> <p>11 Q. So would you agree, then, that you</p> <p>12 started drafting the report roughly around</p> <p>13 September 23rd?</p> <p>14 A. Yes, that sounds right.</p> <p>15 Q. And did you send drafts of this for</p> <p>16 review to Mr. Adams?</p> <p>17 A. Yes.</p> <p>18 (Exhibit 7 marked for identification</p> <p>19 and attached hereto.)</p> <p>20 BY MR. TEPE:</p> <p>21 Q. The court reporter has marked Exhibit</p> <p>22 7. I should note the Bates number is 5621.</p> <p>23 Do you recognize this document?</p> <p>24 A. I've seen it before.</p> <p>25 Q. What do you recognize it to be?</p>	<p style="text-align: right;">Page 71</p> <p>1 A. It's an e-mail from myself to</p> <p>2 Mr. Adams attaching a draft of the -- I believe</p> <p>3 the Alien Invasion I report.</p> <p>4 Q. This is dated September 29, 2016,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And this is how you would normally</p> <p>8 exchange sort of your business records with</p> <p>9 Mr. Adams, would be by e-mail because he was in</p> <p>10 Virginia and you were in Indiana, correct?</p> <p>11 MR. LOCKERBY: Object to the form.</p> <p>12 THE WITNESS: Correct.</p> <p>13 BY MR. TEPE:</p> <p>14 Q. And then you say here: "Christian,</p> <p>15 here is a draft of the Virginia report with what</p> <p>16 we know so far."</p> <p>17 Do you see that?</p> <p>18 A. I see that, yes.</p> <p>19 Q. And this -- this was presumably</p> <p>20 followed by later drafts to Mr. Adams?</p> <p>21 A. I don't know if there were later</p> <p>22 drafts, but there could have been.</p> <p>23 (Exhibit 8 marked for identification</p> <p>24 and attached hereto.)</p> <p>25 BY MR. TEPE:</p>
<p style="text-align: right;">Page 72</p> <p>1 Q. The court reporter has marked as</p> <p>2 Exhibit 8 a document with the Bates number 5601.</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. Do you recognize this document?</p> <p>6 A. I think I've seen it before.</p> <p>7 Q. It's another draft report that you</p> <p>8 sent to Mr. Adams?</p> <p>9 A. It's an e-mail attaching a draft, it</p> <p>10 looks like, yes.</p> <p>11 Q. And this is dated September 29th,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 (Exhibit 9 marked for identification</p> <p>15 and attached hereto.)</p> <p>16 THE WITNESS: Should I keep these</p> <p>17 exhibits in front of me?</p> <p>18 MR. TEPE: Yeah, you can put them to</p> <p>19 the side, whichever, but yes.</p> <p>20 BY MR. TEPE:</p> <p>21 Q. The court reporter has marked as</p> <p>22 Exhibit 9 a document with the Bates number ending</p> <p>23 4985. Do you see that?</p> <p>24 A. I see that.</p> <p>25 Q. Do you recognize this document?</p>	<p style="text-align: right;">Page 73</p> <p>1 A. It's an e-mail written by me, at least</p> <p>2 one of them is.</p> <p>3 Q. So this is a near final draft of the</p> <p>4 Alien Invasion report that you circulated</p> <p>5 internally. Is that right?</p> <p>6 A. It looks that way, yes.</p> <p>7 Q. And this is on September 30th, right,</p> <p>8 2016?</p> <p>9 A. The e-mail is dated September 30th.</p> <p>10 Q. The e-mail chain begins with Mr. Adams</p> <p>11 sending an e-mail to you and Ms. Phillips and</p> <p>12 Mr. Vanderhulst and the subject line says "Have</p> <p>13 report up on Sunday."</p> <p>14 A. I see that.</p> <p>15 Q. What was he talking about there?</p> <p>16 A. I believe he --</p> <p>17 Q. What did you understand him to be</p> <p>18 talking about there?</p> <p>19 A. That it needed to be uploaded to our</p> <p>20 website by Sunday.</p> <p>21 Q. And why did it have to be uploaded to</p> <p>22 your website by Sunday?</p> <p>23 A. Based on what he wrote in the e-mail,</p> <p>24 because he was appearing on Fox.</p> <p>25 Q. On Fox News?</p>



<p style="text-align: right;">Page 74</p> <p>1 A. That's how I understood that, yes.</p> <p>2 Q. So then it took you roughly a week to</p> <p>3 pull together the Alien Invasion I report. Is</p> <p>4 that right?</p> <p>5 MR. LOCKERBY: Object to the form.</p> <p>6 THE WITNESS: Well, Exhibit 6 includes</p> <p>7 a draft that has already been written. I</p> <p>8 don't know how long before that I started</p> <p>9 writing. So it was likely longer than a</p> <p>10 week but...</p> <p>11 BY MR. TEPE:</p> <p>12 Q. Maybe eight days, nine days?</p> <p>13 A. I can't say for sure.</p> <p>14 Q. Now, you recall that when Alien</p> <p>15 Invasion I was published, some jurisdictions had</p> <p>16 provided you records and other jurisdictions had</p> <p>17 not provided you records, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Do you know why PILF didn't wait for</p> <p>20 the additional records to come in before</p> <p>21 publishing?</p> <p>22 A. I do not recall.</p> <p>23 Q. Was PILF trying to get Alien Invasion</p> <p>24 I published before the 2016 elections in</p> <p>25 November?</p>	<p style="text-align: right;">Page 75</p> <p>1 A. I don't recall.</p> <p>2 (Exhibit 10 marked for identification</p> <p>3 and attached hereto.)</p> <p>4 BY MR. TEPE:</p> <p>5 Q. The court reporter has just marked and</p> <p>6 handed to you Exhibit 10.</p> <p>7 Do you recognize this document?</p> <p>8 A. Yes.</p> <p>9 Q. What does it appear to be?</p> <p>10 A. It appears to be a copy of Alien</p> <p>11 Invasion in Virginia.</p> <p>12 Q. For the record, we'll state that we</p> <p>13 pulled this off of PILF's website as being the</p> <p>14 published version of Alien Invasion I.</p> <p>15 Do you want to flip through it? Does</p> <p>16 this look like the full report that PILF</p> <p>17 published?</p> <p>18 A. It looks like it, although I don't</p> <p>19 know entirely how many exhibits we had. But it</p> <p>20 looks like it's the complete report.</p> <p>21 Q. So the title is "Alien Invasion in</p> <p>22 Virginia: The Discovery and Cover-up of</p> <p>23 Noncitizen Registration and Voting." Correct?</p> <p>24 A. Correct.</p> <p>25 Q. On the top of the cover is Public</p>
<p style="text-align: right;">Page 76</p> <p>1 Interest Legal Foundation's logo. Is that right?</p> <p>2 A. That's right.</p> <p>3 Q. And on the bottom is Virginia Voters</p> <p>4 Alliance's logo. Is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. And PILF published this in</p> <p>7 coordination with Virginia Voters Alliance,</p> <p>8 right?</p> <p>9 A. Correct.</p> <p>10 Q. And it's dated September 30, 2016?</p> <p>11 A. Correct.</p> <p>12 Q. Let me direct you to page 2 of the</p> <p>13 report.</p> <p>14 A. I'm looking at that page.</p> <p>15 Q. In the second paragraph under "Summary</p> <p>16 of Findings" -- do you see that?</p> <p>17 A. The bolded paragraph?</p> <p>18 Q. Correct. In bold it says: "In our</p> <p>19 small sample of just eight Virginia counties who</p> <p>20 responded to our public inspection requests, we</p> <p>21 found 1046 aliens who registered to vote</p> <p>22 illegally."</p> <p>23 Do you see that?</p> <p>24 A. I see that sentence.</p> <p>25 Q. Now, the 1046, does that come from the</p>	<p style="text-align: right;">Page 77</p> <p>1 cancellation reports that we had been looking at</p> <p>2 earlier in your testimony?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. We had looked at the cancellation</p> <p>5 report that Prince William County had provided,</p> <p>6 right?</p> <p>7 A. We did look at that.</p> <p>8 Q. And one for Bedford County?</p> <p>9 A. Correct.</p> <p>10 Q. And so that 1046 includes the numbers</p> <p>11 of people listed in those reports?</p> <p>12 A. Not only those reports.</p> <p>13 Q. Right. And so if you go to page 12 of</p> <p>14 the report, there is a chart. Do you see it says</p> <p>15 noncitizens on the rolls in eight counties?</p> <p>16 A. Yes.</p> <p>17 Q. And this totals up to 1046, right?</p> <p>18 A. It should. At the time the math was</p> <p>19 done, it totaled 1046.</p> <p>20 Q. Would the math change between now and</p> <p>21 then?</p> <p>22 A. No.</p> <p>23 Q. So Prince William is listed as 443</p> <p>24 noncitizens. Is that right?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. And that's the number we saw in the</p> <p>2 report that we looked at in the previous exhibit</p> <p>3 or one of the earlier exhibits, correct?</p> <p>4 A. The total listed at the bottom of the</p> <p>5 report.</p> <p>6 Q. Right. And then Bedford County, 35?</p> <p>7 A. I see that.</p> <p>8 Q. And that was the number listed in the</p> <p>9 report that we just looked at before the break,</p> <p>10 correct?</p> <p>11 A. The total listed at the bottom,</p> <p>12 correct.</p> <p>13 Q. If you go to page 7, at the bottom of</p> <p>14 the page it says in bold: "Prince William County</p> <p>15 provided a list of 433 noncitizens who had</p> <p>16 registered to vote in the county but were then</p> <p>17 removed after they were determined to not be U.S.</p> <p>18 citizens."</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. And the phrase "433 noncitizens" is</p> <p>22 not just bolded but it's also italicized,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. And this sentence has a footnote</p>	<p style="text-align: right;">Page 79</p> <p>1 number 15 hanging off it, correct?</p> <p>2 A. Correct.</p> <p>3 Q. It says "see Exhibit 1"?</p> <p>4 A. Correct.</p> <p>5 Q. So this is directing the reader to</p> <p>6 look at Exhibit 1 for the 433 noncitizens in</p> <p>7 Prince William County, correct?</p> <p>8 A. It's directing the reader to the VERIS</p> <p>9 report for Prince William County.</p> <p>10 Q. And I think that's the first time</p> <p>11 you've used that term. The cancellation report</p> <p>12 that we were looking at is also sometimes called</p> <p>13 the VERIS report?</p> <p>14 A. Correct.</p> <p>15 Q. That's because it is a report printed</p> <p>16 off the VERIS system?</p> <p>17 A. Yes.</p> <p>18 Q. And the VERIS system is, I guess, a</p> <p>19 software database that Virginia uses for its</p> <p>20 records?</p> <p>21 A. That's my understanding.</p> <p>22 Q. So let's go to Exhibit 1 if you don't</p> <p>23 mind, and I believe that's -- well, it says</p> <p>24 Exhibit 1, page 1 of 29. Do you see that?</p> <p>25 A. I think I'm on the same page as you,</p>
<p style="text-align: right;">Page 80</p> <p>1 yes.</p> <p>2 Q. This is the cancellation report from</p> <p>3 Prince William County, right?</p> <p>4 A. Correct.</p> <p>5 Q. And this is the report that you got</p> <p>6 from Prince William County that we looked at</p> <p>7 earlier, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, just go back to page 8 of the</p> <p>10 report. The second paragraph in bold states:</p> <p>11 "The United States attorney in Virginia has done</p> <p>12 nothing about the felonies committed by 433</p> <p>13 aliens registering in Prince William County</p> <p>14 alone."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. And this is again referring to the</p> <p>18 people who were listed in Exhibit 1, correct?</p> <p>19 A. Correct.</p> <p>20 Q. If you go back to Exhibit 1 and flip</p> <p>21 to page 26 of 29.</p> <p>22 A. I'm looking at page 26.</p> <p>23 Q. Do you see about five names down the</p> <p>24 name Luciania Freeman?</p> <p>25 A. I see that.</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. So Ms. Freeman is one of the 1046</p> <p>2 aliens noted on page 2 of Alien Invasion,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And that's the 1046 aliens who</p> <p>6 registered to vote illegally according to page 2</p> <p>7 of the Alien Invasion report, correct?</p> <p>8 A. Right. The 1046 refers to the</p> <p>9 individuals who are contained in the reports</p> <p>10 provided by the election officials.</p> <p>11 Q. Right. And you stated on page 2 there</p> <p>12 were 1046 aliens who registered to vote</p> <p>13 illegally, correct?</p> <p>14 A. Correct.</p> <p>15 Q. If you go to page 14 of the report,</p> <p>16 the report states that Prince William County</p> <p>17 provided voter registration applications for the</p> <p>18 people listed on the VERIS report, correct?</p> <p>19 A. Well, it says they provided us</p> <p>20 registration forms for those people removed since</p> <p>21 2015.</p> <p>22 Q. Okay, correct. You are correct.</p> <p>23 So Prince William had the voter</p> <p>24 registration applications for 84 of the 433?</p> <p>25 A. That sounds right based on what's on</p>



<p style="text-align: right;">Page 82</p> <p>1 this page.</p> <p>2 Q. And footnote 30 says that the</p> <p>3 registration applications that were provided to</p> <p>4 PILF are available in Exhibit 7. Is that right?</p> <p>5 A. That's what footnote 30 says.</p> <p>6 Q. So these are the registration forms</p> <p>7 for the what you call, or what PILF states is the</p> <p>8 84 noncitizens provided by Prince William County.</p> <p>9 Is that right?</p> <p>10 A. That's what footnote 30 is referring</p> <p>11 to, yes.</p> <p>12 Q. Now let's go to Exhibit 7, page 48 out</p> <p>13 of 84. Exhibit 7.</p> <p>14 A. I'm looking at page 48.</p> <p>15 Q. And what is reflected on page 48?</p> <p>16 A. It appears to be an application for</p> <p>17 voter registration.</p> <p>18 Q. For?</p> <p>19 A. Completed by Luciania Freeman.</p> <p>20 Q. It's got her home address, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Daytime telephone number, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And on the form she checked "Yes" to</p> <p>25 the question "Are you a citizen of the United</p>	<p style="text-align: right;">Page 83</p> <p>1 States of America?" Correct?</p> <p>2 A. Correct.</p> <p>3 Q. So regardless of how her name ended up</p> <p>4 on the VERIS report, as of the time PILF</p> <p>5 published Alien Invasion I, PILF had evidence of</p> <p>6 her attesting to her citizenship, correct?</p> <p>7 MR. LOCKERBY: Object to the form.</p> <p>8 THE WITNESS: We possessed this page,</p> <p>9 yes.</p> <p>10 BY MR. TEPE:</p> <p>11 Q. Did you personally ever try to contact</p> <p>12 Ms. Freeman to ask about her election records?</p> <p>13 A. No.</p> <p>14 Q. Did you personally try to contact</p> <p>15 Ms. Freeman at all?</p> <p>16 A. No.</p> <p>17 Q. Are you aware of anyone at PILF trying</p> <p>18 to contact Ms. Freeman at all?</p> <p>19 A. I'm not aware.</p> <p>20 Q. Did you contact any of the other 432</p> <p>21 people identified by -- identified in Exhibit 1?</p> <p>22 A. I don't believe so, no.</p> <p>23 Q. Are you aware of anyone at PILF</p> <p>24 contacting the 432 individuals other than</p> <p>25 Ms. Freeman identified in Exhibit 1?</p>
<p style="text-align: right;">Page 84</p> <p>1 A. I'm not aware of that.</p> <p>2 Q. Let's go to page 8 of the report.</p> <p>3 A. I'm looking at page 8.</p> <p>4 Q. On page 8 there is a reference to</p> <p>5 Bedford County.</p> <p>6 A. I see that.</p> <p>7 Q. It says: "Bedford County, a</p> <p>8 relatively small rural county in Virginia with</p> <p>9 only 60,000 individuals of voting age, also</p> <p>10 provided a list of 35 noncitizens that have been</p> <p>11 removed from their voter rolls."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. Is there any notation in here that</p> <p>15 PILF had information that 18 of those 35 had</p> <p>16 reregistered to vote?</p> <p>17 A. I don't see that in here, no.</p> <p>18 Q. You can put this document aside.</p> <p>19 Now, PILF followed up with a second</p> <p>20 Alien Invasion report, correct?</p> <p>21 A. We published a second Alien Invasion</p> <p>22 report.</p> <p>23 Q. So the first one was published around</p> <p>24 September 30th of 2016, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Do you recall when the second one was</p> <p>2 published?</p> <p>3 A. I think May of 2017.</p> <p>4 (Exhibit 11 marked for identification</p> <p>5 and attached hereto.)</p> <p>6 BY MR. TEPE:</p> <p>7 Q. The court reporter has marked as</p> <p>8 Exhibit Number 9 --</p> <p>9 THE REPORTER: 11.</p> <p>10 BY MR. TEPE:</p> <p>11 Q. Exhibit 11. Do you recognize this</p> <p>12 large document?</p> <p>13 A. It appears to be a copy of the Alien</p> <p>14 Invasion II report and the exhibits cited</p> <p>15 therein.</p> <p>16 Q. And again for the record, this is a</p> <p>17 copy of the Alien Invasion II report that we</p> <p>18 printed off from PILF's website. Is that what it</p> <p>19 appears to be?</p> <p>20 A. It does.</p> <p>21 Q. And also just for the record, Alien</p> <p>22 Invasion II was published with three different</p> <p>23 versions of Exhibit 12, correct?</p> <p>24 A. I don't recall all three versions, no.</p> <p>25 Q. Well, do you recall when Alien</p>

<p style="text-align: right;">Page 86</p> <p>1 Invasion II was first published on PILF's website</p> <p>2 there was one version of Exhibit 12 that</p> <p>3 contained Social Security numbers that had not</p> <p>4 yet been redacted?</p> <p>5 A. Yes. That was brought to our</p> <p>6 attention.</p> <p>7 Q. And once that was brought to PILF's</p> <p>8 attention, PILF published a second version of</p> <p>9 Exhibit 12 with those Social Security numbers</p> <p>10 redacted, correct?</p> <p>11 A. That sounds right.</p> <p>12 Q. This exhibit in front of you uses that</p> <p>13 version of Exhibit 12.</p> <p>14 A. I'll have to take your word for it. I</p> <p>15 haven't looked at Exhibit 12.</p> <p>16 Q. And then there was a third version</p> <p>17 that removed some voter registration applications</p> <p>18 from Exhibit 12. Do you recall that?</p> <p>19 A. Yes.</p> <p>20 Q. So just for the record, we're using</p> <p>21 the second version in that exhibit.</p> <p>22 A. Okay.</p> <p>23 Q. Okay. So the cover of the Alien</p> <p>24 Invasion report says: "Alien Invasion II: The</p> <p>25 Sequel to the Discovery and Cover-up of</p>	<p style="text-align: right;">Page 87</p> <p>1 Noncitizen Registration and Voting in Virginia."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. Also on the cover it says "Welcome to</p> <p>5 Virginia. Virginia is for Aliens."</p> <p>6 A. I see that.</p> <p>7 Q. And that's a takeoff on the old</p> <p>8 Virginia slogan "Virginia is for Lovers," right?</p> <p>9 A. Yes.</p> <p>10 Q. The inside cover of Alien Invasion II</p> <p>11 again has the logo of Public Interest Legal</p> <p>12 Foundation, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And the logo of the Virginia Voters</p> <p>15 Alliance, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And it's dated May 2017?</p> <p>18 A. Correct.</p> <p>19 Q. And so this sequel was also published</p> <p>20 in conjunction with VVA, correct?</p> <p>21 A. Correct.</p> <p>22 Q. If you go to page 1 of the report, it</p> <p>23 begins with a reference back to your findings in</p> <p>24 Alien Invasion I. Is that right?</p> <p>25 A. That's right.</p>
<p style="text-align: right;">Page 88</p> <p>1 Q. It states in the first paragraph:</p> <p>2 "Our investigation revealed that in these eight</p> <p>3 Virginia localities more than 1000 noncitizens</p> <p>4 had recently been removed from the voter rolls."</p> <p>5 Do you see that?</p> <p>6 A. Yes, I do.</p> <p>7 Q. It says: "In this small sample,</p> <p>8 nearly 200 verified ballots were cast prior to</p> <p>9 official removal. Each one of them is likely a</p> <p>10 felony."</p> <p>11 Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. And then the report states that PILF</p> <p>14 had done a more statewide look at the records in</p> <p>15 Virginia, correct?</p> <p>16 A. I think it speaks for itself, but</p> <p>17 that's what we did.</p> <p>18 Q. And on the third paragraph here on</p> <p>19 page 1: "As a result" -- it states: "As a</p> <p>20 result, the number of registrants removed from</p> <p>21 voter rolls for citizenship problems during the</p> <p>22 last few election cycles grew to over 5500."</p> <p>23 Do you see that?</p> <p>24 A. I see that.</p> <p>25 Q. "Of these illegal registrants, 1852</p>	<p style="text-align: right;">Page 89</p> <p>1 cast nearly 7500 ballots in elections dating back</p> <p>2 to 1988."</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. And so I understand the phrase</p> <p>6 "illegal registrants" is referring to the over</p> <p>7 5500 individuals, correct?</p> <p>8 A. That's the logical inference from</p> <p>9 their inclusion on the VERIS reports.</p> <p>10 Q. Well, no, I'm just asking about the</p> <p>11 sentence. When you say of these illegal</p> <p>12 registrants, 1852 cast a number of ballots,</p> <p>13 you're saying --</p> <p>14 A. These refers to 5500 in the preceding</p> <p>15 sentence.</p> <p>16 Q. So illegal registrants refers to over</p> <p>17 5500, right?</p> <p>18 A. Correct.</p> <p>19 Q. On page 2, under "Summary of</p> <p>20 Findings," the second paragraph, it states: "The</p> <p>21 numbers are alarming: 5556 noncitizens have been</p> <p>22 removed from the voter rolls for citizenship</p> <p>23 problems in 120 of Virginia's 133 voting</p> <p>24 jurisdictions since 2011."</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. I see that.</p> <p>2 Q. And beneath this paragraph is a</p> <p>3 graphic.</p> <p>4 A. I see that.</p> <p>5 Q. It says 5556 noncitizen registrations.</p> <p>6 A. I see that.</p> <p>7 Q. And 7474 votes cast by noncitizens.</p> <p>8 Do you see that?</p> <p>9 A. I see that too.</p> <p>10 Q. How did PILF identify the 1852 out of</p> <p>11 5556 having voted?</p> <p>12 A. PILF did not identify them.</p> <p>13 Q. Then how is it in your report?</p> <p>14 A. Someone else identified them.</p> <p>15 Q. Who identified them?</p> <p>16 A. The Virginia Voters Alliance.</p> <p>17 Q. So Virginia Voters Alliance performed</p> <p>18 this analysis that yielded the 1852 number?</p> <p>19 A. Yes, with PILF's assistance.</p> <p>20 Q. I'm sorry, there's a siren in the</p> <p>21 background. Can you say it again?</p> <p>22 A. With the foundation's assistance.</p> <p>23 Q. PILF's assistance?</p> <p>24 A. Yes.</p> <p>25 Q. Did VVA work with anyone else in</p>	<p style="text-align: right;">Page 91</p> <p>1 calculating this number of 1852?</p> <p>2 A. I believe they did.</p> <p>3 Q. Did they work with a political action</p> <p>4 committee? Is that right?</p> <p>5 A. I believe one of the entities is a</p> <p>6 political action committee.</p> <p>7 Q. And that's Middle Resolution PAC?</p> <p>8 A. That sounds right.</p> <p>9 Q. Are there other entities that VVA</p> <p>10 worked with?</p> <p>11 A. Not that I'm aware.</p> <p>12 Q. The 5556 number comes from a statewide</p> <p>13 VERIS report received by PILF. Is that right?</p> <p>14 A. It may come from more than one, but it</p> <p>15 is a statewide report.</p> <p>16 Q. I'm not sure I understand your answer.</p> <p>17 A. We received more than one statewide</p> <p>18 VERIS report.</p> <p>19 Q. Okay. You're saying that you received</p> <p>20 multiple statewide VERIS reports?</p> <p>21 A. Yes.</p> <p>22 Q. Well, one of them is published in</p> <p>23 Exhibit 1 to Alien Invasion II, correct?</p> <p>24 A. I believe that's correct.</p> <p>25 Q. When you said "the other report," were</p>
<p style="text-align: right;">Page 92</p> <p>1 you referring to the custom report that the</p> <p>2 Virginia Department of Elections sent over?</p> <p>3 A. No.</p> <p>4 Q. What are you referring to? Oh, I'm</p> <p>5 sorry. You're referring to the fact that there</p> <p>6 was one report for a certain time period and then</p> <p>7 a second report for a more recent time period.</p> <p>8 Is that right?</p> <p>9 A. Correct.</p> <p>10 Q. And so both of them together are</p> <p>11 what's published in Exhibit 1, correct?</p> <p>12 A. I believe so. I haven't looked at</p> <p>13 Exhibit 1 right now.</p> <p>14 Q. You can feel free. I think the date</p> <p>15 ranges are on the top of the pages. Right?</p> <p>16 A. Yes, it looks like there are two</p> <p>17 reports from separate time periods in Exhibit 1.</p> <p>18 Q. And so the VERIS report that you just</p> <p>19 looked at as Exhibit 1 is the same type of report</p> <p>20 that was used in Exhibit 1 in the Alien Invasion</p> <p>21 I, correct?</p> <p>22 MR. LOCKERBY: Object to the form.</p> <p>23 THE WITNESS: If you mean if it's also</p> <p>24 a VERIS-generated report, yes.</p> <p>25 BY MR. TEPE:</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. There are differences, such as the</p> <p>2 time period covered, correct?</p> <p>3 A. Yes, that would be one difference.</p> <p>4 Q. And when the report was generated,</p> <p>5 that would be another difference?</p> <p>6 A. Yes.</p> <p>7 Q. Is there another difference you're</p> <p>8 aware of?</p> <p>9 A. The number of jurisdictions included</p> <p>10 in the report is different.</p> <p>11 Q. Right. So in Alien Invasion I,</p> <p>12 Exhibit 1 was just Prince William County that you</p> <p>13 had published, correct?</p> <p>14 A. I believe so, yes.</p> <p>15 Q. And in Alien Invasion II, you</p> <p>16 published all of the jurisdictions that had names</p> <p>17 listed in the cancellation report, which was</p> <p>18 about 120 out of --</p> <p>19 A. Yes.</p> <p>20 Q. -- 133, if I recall correctly.</p> <p>21 A. Yes.</p> <p>22 Q. Please go to page 100 of 486.</p> <p>23 A. In Exhibit 1?</p> <p>24 Q. Exhibit 1.</p> <p>25 A. I'm looking at page 100.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q. Do you see the name Eliud Bonilla at 2 the bottom? 3 A. I see that. 4 Q. Do you see his home address listed? 5 A. I see an address listed. I don't know 6 if it's his home address. 7 Q. And Mr. Bonilla is one of the 5556 8 noncitizens noted in the Alien Invasion II 9 summary of findings, right? 10 A. Yes. 11 Q. Now go to page 258 of 486. 12 A. I'm looking at page 258. 13 Q. Do you see the name Luciania Freeman? 14 A. I do. 15 Q. And an address for her? 16 A. I see an address. 17 Q. So Ms. Freeman is one of the 5556 18 noncitizens noted in the Alien Invasion II 19 summary of findings, correct? 20 A. Yes. 21 Q. PILF had the voter registration 22 application for Mr. Bonilla, correct? 23 A. I don't recall if we did. 24 Q. If you go to page 217 -- it should be 25 tabbed -- of Exhibit 12.</p>	<p style="text-align: right;">Page 95</p> <p>1 A. Is it one of these other tabs? 2 Q. Yeah, it might be. It would be 3 Exhibit 12. 4 A. Okay. 5 MR. LOCKERBY: Can we get a Bates 6 number for identification? The copy I'm 7 looking at does not have page numbers on it. 8 MR. TEPE: I guess it's PILF 50. 9 THE WITNESS: I see that. 10 BY MR. TEPE: 11 Q. Okay. So this is a voter registration 12 application for Mr. Bonilla. Is that right? 13 A. It appears to be. 14 Q. It's got an address listed, right? 15 A. Yes. 16 Q. A telephone number? 17 A. Yes. 18 Q. And he checked the box "Yes" to "Are 19 you a citizen of the United States of America?" 20 Correct? 21 A. Yes. 22 Q. So at the time that PILF published 23 Alien Invasion II, PILF had at least one document 24 indicating Mr. Bonilla was claiming U.S. 25 citizenship, correct?</p>
<p style="text-align: right;">Page 96</p> <p>1 A. We had this document in our 2 possession, yes. 3 Q. And PILF had another document, the 4 VERIS report, indicating his registration had 5 been canceled, correct? 6 A. The VERIS report indicated his 7 registration was canceled. 8 Q. Before publishing Alien Invasion II, 9 did you try to contact Mr. Bonilla to ask about 10 these different documents? 11 A. No. 12 Q. To your knowledge, did anyone at PILF 13 try to contact Mr. Bonilla? 14 A. Not to my knowledge. 15 Q. His phone number is right there, 16 correct? 17 A. It's on this document, yes. 18 Q. You had the voter registration 19 application for Ms. Freeman as well, correct? 20 A. We do have it, yes. 21 Q. And it's in that set in front of you, 22 correct, enclosed in Exhibit 12, right? 23 A. I don't think I've seen it yet but... 24 Q. I think it might be the next tab in 25 your pile. Right there, near the bottom.</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Yes, the application for registration 2 for Luciania Freeman is in this exhibit. 3 Q. With her home address, or an address? 4 A. It includes an address. 5 Q. And telephone number? 6 A. Yes. 7 Q. And she marked "Yes" to the question 8 "Are you a citizen of the United States of 9 America?" 10 A. Yes. 11 Q. So you would agree at the time PILF 12 published Alien Invasion II, it had at least one 13 document indicating Ms. Freeman was claiming U.S. 14 citizenship, correct? 15 A. We had this document in our 16 possession, correct. 17 Q. And PILF had another document of the 18 VERIS report indicating her registration had been 19 canceled, correct? 20 MR. LOCKERBY: Object to the form. 21 THE WITNESS: Her name was included in 22 the VERIS report, yes. 23 MR. TEPE: What's the objection, 24 counsel? 25 MR. LOCKERBY: The objection is the</p>

question is misleading. It assumes that this document does not say "canceled - declared noncitizen" on it. By using the phrase "another document" it misstates the record and the evidence.

BY MR. TEPE:

Q. So you would agree at the time PILF published Alien Invasion II, it had at least one document indicating Ms. Freeman was claiming U.S. citizenship, correct?

A. This document was in our possession.

Q. Her voter registration application, correct?

A. Yes.

Q. Now, you also had another document published in Exhibit 1 to Alien Invasion II that indicated her voter registration had been canceled, correct?

A. The VERIS report indicated her voter registration had been canceled.

Q. Before publishing Alien Invasion II, did you try to contact Ms. Freeman to ask about these two different documents?

A. No.

Q. To your knowledge, did anyone at PILF

try to contact Ms. Freeman?

A. No.

Q. You had uploaded all these exhibits to PILF's website, correct?

A. I did not, I don't believe. I don't recall if I did.

(Exhibit 12 marked for identification and attached hereto.)

BY MR. TEPE:

Q. I believe this is marked as Exhibit 12.

A. It is.

Q. With a Bates number ending in 996?

A. Correct.

Q. Does this refresh your recollection as to whether you uploaded exhibits to PILF's website for Alien Invasion II?

A. It does say: "I have all the exhibits uploaded to the website and ready to go."

Q. Now, uploading all of these exhibits to PILF's website effectively allowed anyone in the world with Internet access to see the names of the people listed in the exhibits to Alien Invasion II, correct?

A. Once the pages were made live, that's

correct.

Q. See their home addresses, correct?

A. I'm sorry, can you repeat the question?

MR. TEPE: Strike that.

BY MR. TEPE:

Q. Were there discussions at PILF regarding whether to publish these records on the Internet?

A. By "these records" you mean what?

Q. The records that were included as exhibits to Alien Invasion II.

A. We had discussions, yes.

Q. What do you recall about those discussions?

A. I recall that with the Alien Invasion I report we did not publish all the records referenced in the report.

Q. So in Alien Invasion I you had published the VERIS report for Prince William County but not the VERIS report for Bedford County, for example?

A. For example, correct.

Q. But in Alien Invasion II you published the VERIS report for 120-some-odd jurisdictions?

A. Correct.

Q. Was there a discussion that you recall as to whether or not PILF should publish on the Internet the VERIS report?

A. I do not recall that discussion.

Q. Was PILF trying to make it easy for law enforcement -- Strike that.

By publishing these exhibits online, was PILF trying to make it easy for law enforcement to prosecute people?

A. I don't recall that being discussed as a reason to publish them online.

Q. Do you recall that being discussed as a reason to have Alien Invasion reports published?

A. When you say "published," do you mean printed somewhere other than online?

Q. No. Just published generally, whether it's in print, online.

A. I recall that being discussed.

Q. Do you recall Mr. Adams telling you, "Remember, this was intended to be a turnkey prosecution for officials. I can hand them the report and they can virtually get a grand jury indictment." Do you recall that?



<p style="text-align: right;">Page 102</p> <p>1 A. Vaguely.</p> <p>2 Q. In the report Alien Invasion II, PILF</p> <p>3 advocated using the exhibits to Alien Invasion II</p> <p>4 to prosecute individuals, correct?</p> <p>5 A. I recall that we advocated for</p> <p>6 enforcement of the law.</p> <p>7 Q. And specifically prosecution of people</p> <p>8 in the records that PILF was publishing, correct?</p> <p>9 A. I don't recall that as you're</p> <p>10 characterizing it, no.</p> <p>11 Q. Let's go to page 16 of Alien Invasion</p> <p>12 II.</p> <p>13 A. Is that in the same exhibit?</p> <p>14 Q. It's the bigger one.</p> <p>15 A. But Exhibit 12, is that a copy of the</p> <p>16 report? Or do you want me to use Exhibit 11?</p> <p>17 Q. Exhibit 12.</p> <p>18 A. This is Exhibit 11.</p> <p>19 Q. Or Exhibit 11.</p> <p>20 A. Page 16?</p> <p>21 Q. Correct.</p> <p>22 A. I'm looking at page 16.</p> <p>23 Q. Page 16 shows a number of</p> <p>24 recommendations that PILF was making based on its</p> <p>25 findings, correct?</p>	<p style="text-align: right;">Page 103</p> <p>1 A. I think the page speaks for itself.</p> <p>2 Q. So it says at the top "Recommendations</p> <p>3 and Solutions," correct?</p> <p>4 A. Yes.</p> <p>5 Q. And then one of the recommendations on</p> <p>6 the right-hand side, the last checked box, the</p> <p>7 checkmark says: "Law enforcement at both the</p> <p>8 federal and state level should exercise their</p> <p>9 authority to prosecute cases of voter fraud.</p> <p>10 Voter registration and voting history records</p> <p>11 such as those contained in this report make</p> <p>12 prosecution an easy task."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. And then if you go to page 3 of the</p> <p>16 report, the third paragraph on the left-hand</p> <p>17 side, second sentence, it says: "The response of</p> <p>18 law enforcement officials to both single</p> <p>19 instances of voter fraud and the hundreds of</p> <p>20 examples documented in this report should be the</p> <p>21 same: swift, sure and unwavering."</p> <p>22 Do you see that?</p> <p>23 A. I see that.</p> <p>24 Q. Do you understand that to be swift</p> <p>25 prosecution of the hundreds of examples</p>
<p style="text-align: right;">Page 104</p> <p>1 documented in this report?</p> <p>2 A. I understand it to mean the response</p> <p>3 of law enforcement. That is what it is</p> <p>4 modifying.</p> <p>5 Q. Response of law enforcement should be</p> <p>6 swift, correct?</p> <p>7 A. That's what it means, yes.</p> <p>8 Q. It should be unwavering, correct?</p> <p>9 A. Unwavering also modifies response.</p> <p>10 Q. And what kind of response was PILF</p> <p>11 advocating there?</p> <p>12 A. Further investigation.</p> <p>13 Q. And potentially prosecution?</p> <p>14 A. If after the investigation there was</p> <p>15 grounds to prosecute, then, yes.</p> <p>16 Q. Well, why wouldn't there be grounds to</p> <p>17 prosecute if you had 5556 noncitizens who had</p> <p>18 registered to vote illegally?</p> <p>19 A. I'm not a law enforcement official.</p> <p>20 There may be a number of reasons they do not</p> <p>21 prosecute.</p> <p>22 Q. Well, putting aside maybe a</p> <p>23 discretionary decision whether to prosecute</p> <p>24 people, you are confident that the 5556 people</p> <p>25 listed in Exhibit 1 to Alien Invasion II are</p>	<p style="text-align: right;">Page 105</p> <p>1 noncitizens, right?</p> <p>2 A. We reported the contents of the</p> <p>3 official records provided by the government.</p> <p>4 Q. Right. And in your report you call</p> <p>5 them 5556 noncitizens, correct?</p> <p>6 MR. LOCKERBY: Object to form.</p> <p>7 THE WITNESS: I believe the report</p> <p>8 uses that language, yes.</p> <p>9 BY MR. TEPE:</p> <p>10 Q. So part of PILF's purpose in</p> <p>11 publishing Alien Invasion II was to see some</p> <p>12 people be prosecuted, correct?</p> <p>13 MR. LOCKERBY: Object to the form.</p> <p>14 THE WITNESS: No, I would not agree</p> <p>15 with that.</p> <p>16 BY MR. TEPE:</p> <p>17 Q. That was not a purpose of publishing</p> <p>18 Alien Invasion II, was to see some people be</p> <p>19 prosecuted?</p> <p>20 A. One of the purposes was to investigate</p> <p>21 whether there should be prosecution. This was</p> <p>22 evidence we intended for them to use in their</p> <p>23 investigation.</p> <p>24 Q. Well, I believe you recalled earlier</p> <p>25 Mr. Adams telling you that Alien Invasion was</p>

<p style="text-align: right;">Page 106</p> <p>1 intended to be a turnkey prosecution for  2 officials. Hand them the report and they could  3 virtually go get a grand jury indictment,  4 correct?  5 MR. LOCKERBY: Object to the form.  6 The question misstates the witness's prior  7 testimony. The transcript reflects what he  8 said. And on its face the question has been  9 asked and answered, if it is a question.  10 THE WITNESS: If there is a question,  11 I ask that it be repeated.  12 BY MR. TEPE:  13 Q. Was publishing Alien Invasion II --  14 Strike that.  15 Was one purpose of publishing Alien  16 Invasion II to get at least some people  17 prosecuted --  18 MR. LOCKERBY: Objection.  19 BY MR. TEPE:  20 Q. -- by law enforcement?  21 MR. LOCKERBY: Objection; asked and  22 answered.  23 THE WITNESS: If there were grounds  24 for prosecution?  25 BY MR. TEPE:</p>	<p style="text-align: right;">Page 107</p> <p>1 Q. Yes.  2 A. Yes.  3 Q. Now, PILF also recognized that one of  4 the goals of prosecution is to change the  5 behavior of those who are not directly  6 prosecuted, correct?  7 MR. LOCKERBY: Object to the form.  8 THE WITNESS: Please repeat the  9 question.  10 BY MR. TEPE:  11 Q. PILF also recognized that one of the  12 goals in prosecution generally is to change the  13 behavior of those who are not directly  14 prosecuted, correct?  15 A. I guess I don't know who you're  16 referring to when you say "those not directly  17 prosecuted."  18 Q. Okay. Let's go to page 2 of the  19 report.  20 A. I'm looking at page 2.  21 Q. Under the header "The Stakes," fourth  22 paragraph down, the report states: "Even worse,  23 federal and state law enforcement officials who  24 are entrusted with prosecuting noncitizens who  25 register and vote as a means to deter others from</p>
<p style="text-align: right;">Page 108</p> <p>1 doing the same have repeatedly done nothing when  2 provided with solid evidence of noncitizen  3 participation in the electoral system."  4 Do you see that?  5 A. I see that.  6 Q. Is it fair to say that PILF believed  7 that part of the reason why you prosecute is to  8 deter others from engaging in the same conduct?  9 A. If by "others" you mean those who  10 would intend to break the law, then enforcement  11 of the law has a deterrent effect on those  12 people. That is the theory, at least.  13 Q. Do you believe that investigating  14 those accused of breaking the law could influence  15 the behavior of others accused of breaking the  16 law?  17 MR. LOCKERBY: Object to the form of  18 the question.  19 THE WITNESS: It depends on who is  20 doing the investigating and who's doing the  21 accusing.  22 BY MR. TEPE:  23 Q. But it's possible?  24 A. I would agree it's possible.  25 Q. PILF could have simply handed the data</p>	<p style="text-align: right;">Page 109</p> <p>1 it collected from election officials to  2 prosecutors confidentially, correct?  3 A. We could have.  4 Q. Instead, PILF decided to publish  5 people's names for all the world to see, correct?  6 MR. LOCKERBY: Object to the form.  7 THE WITNESS: No, I disagree with "all  8 the world."  9 BY MR. TEPE:  10 Q. Well, PILF decided to publish people's  11 names on the Internet, correct?  12 MR. LOCKERBY: Objection.  13 THE WITNESS: We published people's  14 names on the Internet.  15 BY MR. TEPE:  16 Q. As opposed to just simply handing over  17 those names to prosecutors confidentially,  18 correct?  19 A. It was not an either/or.  20 Q. Well, those were two options, publish  21 it on the Internet or hand it over to  22 prosecutors, correct? Those are two options?  23 A. Those are two possible options, yes.  24 Q. Are you aware of other options?  25 A. Yes.</p>



Page 110	Page 111
<p>1 Q. Such as?</p> <p>2 A. We could have printed it and</p> <p>3 distributed it about town.</p> <p>4 Q. Okay. Any other options?</p> <p>5 A. It could have been mailed to a select</p> <p>6 number of people. There's probably many more</p> <p>7 options of what we could have done with a printed</p> <p>8 document.</p> <p>9 Q. And you could have also not handed the</p> <p>10 documents over to prosecutors, correct? That was</p> <p>11 an option?</p> <p>12 A. Not giving it to prosecutors was an</p> <p>13 option?</p> <p>14 Q. Right.</p> <p>15 A. That was an option.</p> <p>16 Q. Not publishing it on the Internet was</p> <p>17 an option?</p> <p>18 A. That was an option.</p> <p>19 Q. So why -- why did PILF decide to</p> <p>20 publish these records on the Internet? Do you</p> <p>21 know?</p> <p>22 A. I do not recall discussions as to why</p> <p>23 it should be published on the Internet.</p> <p>24 Q. So PILF published the names and</p> <p>25 addresses of thousands of people, and you don't</p>	<p>1 know why they did it?</p> <p>2 MR. LOCKERBY: Object to the form.</p> <p>3 THE WITNESS: No, I said I don't</p> <p>4 recall discussions as to why it was</p> <p>5 published on the Internet.</p> <p>6 BY MR. TEPE:</p> <p>7 Q. Okay. So you don't recall</p> <p>8 discussions, but you know why PILF did it?</p> <p>9 A. I know that it was done. I don't</p> <p>10 recall discussing the reason why it was done.</p> <p>11 Nor do I know the reason it was necessarily done.</p> <p>12 Q. So you uploaded for publication on the</p> <p>13 Internet the names and addresses of over 5000</p> <p>14 people and you don't know why?</p> <p>15 MR. LOCKERBY: Object to the form.</p> <p>16 Asked and answered.</p> <p>17 THE WITNESS: Again, I don't -- I</p> <p>18 don't recall having a discussion as to this</p> <p>19 is why we need to publish this on the site,</p> <p>20 no.</p> <p>21 BY MR. TEPE:</p> <p>22 Q. Now, we had discussed earlier that</p> <p>23 PILF had voter registration applications for many</p> <p>24 people, correct?</p> <p>25 A. You're referring to the applications?</p>
Page 112	Page 113
<p>1 Q. Published in Exhibit 12 to Alien</p> <p>2 Invasion II, correct.</p> <p>3 A. We possessed the registration</p> <p>4 applications contained in Exhibit 12.</p> <p>5 Q. There's 764 applications?</p> <p>6 A. I don't know the exact number.</p> <p>7 Q. Did you personally review these</p> <p>8 applications?</p> <p>9 A. I did review some of them.</p> <p>10 Q. What was the purpose for collecting</p> <p>11 these voter registration applications?</p> <p>12 A. One reason was to observe what answer</p> <p>13 the registrant gave to the citizenship question.</p> <p>14 Q. Which box they checked, correct?</p> <p>15 A. "Yes" or "No," correct.</p> <p>16 Q. And so some registrants on these</p> <p>17 applications checked "No," correct?</p> <p>18 A. We found some of them checked "No" to</p> <p>19 that question, yes.</p> <p>20 Q. And there were a few registration</p> <p>21 applications in which no box was checked?</p> <p>22 A. That sounds right, correct.</p> <p>23 Q. But the vast majority of voter</p> <p>24 registrations had the citizenship question</p> <p>25 answered yes, correct?</p>	<p>1 A. Correct.</p> <p>2 Q. PILF didn't limit its Alien Invasion</p> <p>3 II report to just those people who had answered</p> <p>4 no to the citizenship question, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Let's go to page 13 of the Alien</p> <p>7 Invasion II report.</p> <p>8 A. 13? Did you say page 13?</p> <p>9 Q. Yeah. I'm sorry. Yes, I did.</p> <p>10 A. Okay, I'm looking at page 13.</p> <p>11 Q. On the right-hand side, third</p> <p>12 paragraph from the bottom, it begins: "In the 16</p> <p>13 jurisdictions surveyed, PILF reviewed 764 voter</p> <p>14 registration applications submitted by applicants</p> <p>15 who were later removed for lacking U.S.</p> <p>16 citizenship."</p> <p>17 Do you see that?</p> <p>18 A. I see that sentence.</p> <p>19 Q. And then two paragraphs down it refers</p> <p>20 to 702 noncitizen registrants getting on the</p> <p>21 voter rolls for checking "Yes" to the citizenship</p> <p>22 question, correct?</p> <p>23 A. That's what the paragraph refers to,</p> <p>24 yes.</p> <p>25 Q. And then the footnote 69, that refers</p>

<p style="text-align: right;">Page 114</p> <p>1 the reader to Exhibit 12. Is that right?</p> <p>2 A. Footnote 69 refers to Exhibit 12.</p> <p>3 Q. So of the 764 voter registration</p> <p>4 applications reviewed by PILF, 702 answered "Yes"</p> <p>5 to the citizenship question, correct?</p> <p>6 A. That's what's indicated on this page.</p> <p>7 Q. But PILF in its report calls these 702</p> <p>8 registrants noncitizens, correct? On the bottom</p> <p>9 of page 13.</p> <p>10 A. I think the paragraph speaks for</p> <p>11 itself.</p> <p>12 Q. It says 702 noncitizen registrants,</p> <p>13 correct?</p> <p>14 A. The last paragraph does, yes.</p> <p>15 Q. And you had the phone numbers for</p> <p>16 these 702 registrants, correct?</p> <p>17 A. I don't know if we had phone numbers</p> <p>18 for all of them.</p> <p>19 Q. But for many of them you did because</p> <p>20 it's part of the voter registration application,</p> <p>21 correct?</p> <p>22 A. I can't say that we had many either</p> <p>23 without looking at them.</p> <p>24 Q. Well, flip through.</p> <p>25 A. All 702?</p>	<p style="text-align: right;">Page 115</p> <p>1 Q. I mean, if you have a real doubt that</p> <p>2 the voter registration applications contained</p> <p>3 people's phone numbers, I guess so.</p> <p>4 A. I don't have a basis for believing</p> <p>5 it's required information.</p> <p>6 Q. That wasn't the question. The</p> <p>7 question was: Isn't it true that for probably</p> <p>8 most if not all of the 702 applicants that are</p> <p>9 named as noncitizens in the report, you had their</p> <p>10 phone numbers, correct?</p> <p>11 A. Again, I'm not willing to say that I</p> <p>12 had them without looking at them.</p> <p>13 MR. LOCKERBY: Object to the form.</p> <p>14 "Most" is undefined.</p> <p>15 THE WITNESS: I'm happy to look</p> <p>16 through all 702 if you would like me to.</p> <p>17 BY MR. TEPE:</p> <p>18 Q. You appear to be in real doubt as to</p> <p>19 whether or not you had people's phone numbers.</p> <p>20 So if you want to flip through it.</p> <p>21 MR. LOCKERBY: Objection. Now counsel</p> <p>22 is arguing with the witness. Does the</p> <p>23 question about most still stand, or has it</p> <p>24 been withdrawn?</p> <p>25 MR. TEPE: It still stands.</p>
<p style="text-align: right;">Page 116</p> <p>1 THE WITNESS: Then my answer is I do</p> <p>2 not recall how many applications contained a</p> <p>3 phone number.</p> <p>4 BY MR. TEPE:</p> <p>5 Q. It's right in front of you. Do you</p> <p>6 want to check?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. If you're giving me the option, then I</p> <p>10 would rather not look at them.</p> <p>11 Q. Why don't you go to page 96. I</p> <p>12 believe it's flagged.</p> <p>13 A. Page 96 of what?</p> <p>14 Q. Of Exhibit 12.</p> <p>15 A. I don't believe they have page</p> <p>16 numbers.</p> <p>17 Q. It should be flagged. We're looking</p> <p>18 for the application of Abby Sharpe Focht.</p> <p>19 A. I believe I'm looking at it.</p> <p>20 Q. Ms. Focht, who, for the record, is now</p> <p>21 known as Gearhart, checked "Yes" to the question</p> <p>22 "Are you a citizen of the United States?"</p> <p>23 Correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, when you published her voter</p>	<p style="text-align: right;">Page 117</p> <p>1 registration application as part of Exhibit 12,</p> <p>2 PILF knew that her application had not been</p> <p>3 canceled, correct?</p> <p>4 MR. LOCKERBY: Object to the form.</p> <p>5 MR. TEPE: Strike that.</p> <p>6 BY MR. TEPE:</p> <p>7 Q. When PILF published Alien Invasion II</p> <p>8 and specifically Ms. Focht's application as part</p> <p>9 of Exhibit 12, PILF was aware that her voter</p> <p>10 registration had not been canceled, correct?</p> <p>11 MR. LOCKERBY: Object to the form of</p> <p>12 the question. Not only does it assume facts</p> <p>13 not in evidence but counsel is required to</p> <p>14 have a good faith basis for asking a</p> <p>15 question when in fact the sworn testimony of</p> <p>16 Ms. Gearhart is that her registration was</p> <p>17 canceled at one point.</p> <p>18 MR. TEPE: Okay.</p> <p>19 BY MR. TEPE:</p> <p>20 Q. PILF was aware when it published Alien</p> <p>21 Invasion II that Ms. Focht, now Gearhart, knew</p> <p>22 that she had affirmed under oath her citizenship,</p> <p>23 correct?</p> <p>24 MR. LOCKERBY: Objection. The</p> <p>25 question is vague as to time period.</p>

<p style="text-align: right;">Page 118</p> <p>1 BY MR. TEPE:</p> <p>2 Q. Any time period.</p> <p>3 A. We possessed her voter registration</p> <p>4 application.</p> <p>5 Q. And you also possessed her affirmation</p> <p>6 of citizenship, correct?</p> <p>7 A. We did, but I cannot say that I was</p> <p>8 aware of it.</p> <p>9 Q. You can put that to the side for the</p> <p>10 moment.</p> <p>11 (Exhibit 13 marked for identification</p> <p>12 and attached hereto.)</p> <p>13 BY MR. TEPE:</p> <p>14 Q. The court reporter has marked as</p> <p>15 Exhibit 13 a document with the beginning Bates</p> <p>16 number of 13234.</p> <p>17 A. I see that.</p> <p>18 Q. Do you recognize this document?</p> <p>19 A. I've seen it before.</p> <p>20 Q. What do you recognize it to be?</p> <p>21 A. It's an e-mail from</p> <p>22 waltlatham@yorkcounty.gov written to me and</p> <p>23 Shawna Powell.</p> <p>24 Q. And it's dated November 22, 2016?</p> <p>25 A. The top e-mail is. I'm sorry, the</p>	<p style="text-align: right;">Page 119</p> <p>1 first page of Exhibit 13 is.</p> <p>2 Q. It's only one e-mail, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, do you recall that for a period</p> <p>5 of time the Virginia Department of Elections took</p> <p>6 the position that it could not hand over the</p> <p>7 VERIS reports based on their interpretation of</p> <p>8 the federal statute?</p> <p>9 A. Yes, they took that position.</p> <p>10 Q. And at this point in time, November of</p> <p>11 2016, York County was taking the same position,</p> <p>12 that it could not hand over the VERIS reports</p> <p>13 themselves, correct?</p> <p>14 A. They were abiding by instructions from</p> <p>15 the Department of Elections not to produce the</p> <p>16 information requested, or at least the VERIS</p> <p>17 report.</p> <p>18 Q. And so in lieu of that, Mr. Latham,</p> <p>19 the general registrar of York County, sent copies</p> <p>20 of correspondence with voters to you, correct?</p> <p>21 A. This e-mail says that he sent -- he</p> <p>22 has attached a batch of letters sent to voters</p> <p>23 who indicated that they were not citizens.</p> <p>24 Q. Right. These are copies of the</p> <p>25 notices of intent to cancel and affirmation of</p>
<p style="text-align: right;">Page 120</p> <p>1 citizenship forms and voter registration</p> <p>2 cancellation notices, correct?</p> <p>3 A. Those appear to be documents that are</p> <p>4 attached to this e-mail.</p> <p>5 Q. If you go to Bates number 13324. Do</p> <p>6 you see that?</p> <p>7 A. I see that.</p> <p>8 Q. This is a notice of intent to cancel</p> <p>9 directed to Abby Sharpe Focht. Is that right?</p> <p>10 A. Correct.</p> <p>11 Q. And it's dated April 13, 2012?</p> <p>12 A. That's the date on it.</p> <p>13 Q. And included with that mailing was an</p> <p>14 affirmation of citizenship form for her to</p> <p>15 complete, correct?</p> <p>16 A. That's the next page after the notice</p> <p>17 of intent to cancel.</p> <p>18 Q. And in the notice of intent to cancel</p> <p>19 from Mr. Latham to Ms. Focht it says: "Please</p> <p>20 complete the affirmation of citizenship form and</p> <p>21 return it using the enclosed envelope." Right?</p> <p>22 A. That's what the notice of intent to</p> <p>23 cancel says.</p> <p>24 Q. And it says: "If you do not respond</p> <p>25 within 14 days, you will be removed from the list</p>	<p style="text-align: right;">Page 121</p> <p>1 of registered voters." Correct?</p> <p>2 A. Yes.</p> <p>3 (Exhibit 14 marked for identification</p> <p>4 and attached hereto.)</p> <p>5 BY MR. TEPE:</p> <p>6 Q. What has been marked as Exhibit 14</p> <p>7 begins with Bates number 13148.</p> <p>8 A. I see that.</p> <p>9 Q. Do you recognize this document?</p> <p>10 A. It's another e-mail from Walt Latham</p> <p>11 to me and Shawna Powell.</p> <p>12 Q. Same day, November 22nd?</p> <p>13 A. Of 2016.</p> <p>14 Q. And in the subject line it says:</p> <p>15 "York County Va - files requested - batch 3 of</p> <p>16 4." Correct?</p> <p>17 A. That's the top e-mail of this page,</p> <p>18 yes.</p> <p>19 Q. So he was sending you a bunch of</p> <p>20 records in four different e-mails. Is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And in this third batch you were sent</p> <p>24 the voter registration application of Ms. Focht.</p> <p>25 Is that right?</p>

<p style="text-align: right;">Page 122</p> <p>1 A. I have to look at the -- And what was 2 attached? 3 Q. 13185. 4 A. 13185 appears to be the application of 5 Ms. Focht. 6 Q. And this was the application that was 7 published in Exhibit 12 to Alien Invasion II, 8 correct? 9 A. It appears to be the same, yes. 10 (Exhibit 15 marked for identification 11 and attached hereto.) 12 BY MR. TEPE: 13 Q. The court reporter has marked as 14 Exhibit 15 a document with the Bates number 15 13118. Do you see that? 16 A. I see that. 17 Q. Do you recognize this document? 18 A. I've seen it before. 19 Q. And it's the fourth e-mail of four 20 from Mr. Latham on November 22nd? 21 A. That looks right. 22 Q. And he states here: "And, finally, 23 here are the responses from voters to our 24 letters." 25 Do you see that?</p>	<p style="text-align: right;">Page 123</p> <p>1 A. I see that. 2 Q. Do you understand that to mean that 3 these were the responses to the notices of intent 4 to cancel? 5 A. I don't know what I thought it meant 6 at the time it was received. 7 Q. But you understand that now? 8 A. I understand that to be true now. 9 Q. If you go to the attachment to this 10 e-mail, not very far in, Bates number 13121. 11 A. I see that. 12 Q. What do you recognize this to be? 13 A. This looks like an affirmation of 14 citizenship from Ms. Focht. 15 Q. And do you see the "received" stamp at 16 the bottom? 17 A. I do. 18 Q. It says "Received April 23, 2012"? 19 A. I see that. 20 Q. It was received within two weeks of 21 the notice of intent to cancel going out, 22 correct? 23 A. I don't recall the date the notice 24 went out. 25 Q. Well, go back to the earlier exhibit,</p>
<p style="text-align: right;">Page 124</p> <p>1 Exhibit 13. 2 A. Which page? 3 Q. I believe it's 13324. So the date on 4 the intent to cancel was April 13th, right? 5 A. I see that, yes. 6 Q. And York County received it on, it 7 would appear, April 23rd, correct? Based on the 8 stamp on her affirmation of citizenship form. 9 A. Yes, her affirmation of citizenship, 10 it says received April 23, 2012. 11 Q. That was within two weeks of the 12 intent to cancel going out? 13 A. According to these dates, yes. 14 Q. At this time, when Alien Invasion II 15 was published, what was PILF's basis for saying 16 that Ms. Focht was a noncitizen? 17 A. I believe her application was 18 inadvertently included in Exhibit 12. 19 Q. And that was PILF's mistake, correct? 20 MR. LOCKERBY: Object to the form. 21 THE WITNESS: We are the ones who 22 initially included it in Exhibit 12. 23 BY MR. TEPE: 24 Q. So at the time Alien Invasion II was 25 published you had two things, right? You had her</p>	<p style="text-align: right;">Page 125</p> <p>1 voter registration application, correct? 2 A. It had been sent to us, correct. 3 Q. And you had her affirmation of 4 citizenship, correct? 5 A. It had also been included in an e-mail 6 from Mr. Latham. 7 Q. And they both indicated citizenship, 8 correct? 9 A. I would have to look back at her 10 application to know if she checked "Yes" to that 11 question. 12 Q. We just looked at that. That was 13 13324. 13185, Exhibit 14. 14 A. 131 -- 15 Q. 85. 16 A. Yes, she answered the question "Yes." 17 Q. So the two documents that PILF had 18 when it published Alien Invasion II indicated 19 citizenship for Ms. Focht, right? 20 A. We -- we had these two documents. 21 Q. You included one of those documents, 22 her registration, in Exhibit 12, correct? 23 A. Her application for voter registration 24 was initially included in Exhibit 12. 25 Q. And Exhibit 12 contained voter</p>

<p style="text-align: right;">Page 126</p> <p>1 registration applications that PILF said were 2 noncitizens, correct? 3 MR. LOCKERBY: Object to the form. 4 THE WITNESS: Only based on our 5 understanding of what was -- should have 6 been included in there. Again, her 7 application was -- the inclusion of her 8 application was inadvertent. 9 BY MR. TEPE: 10 Q. And that was an inadvertent mistake by 11 PILF, correct? 12 MR. LOCKERBY: Object to the form. 13 THE WITNESS: Again, I said it was 14 inadvertent, yes. 15 BY MR. TEPE: 16 Q. And it was a mistake by PILF, correct? 17 A. The foundation is the one who included 18 it. Yes. 19 Q. It wasn't the fault or an error by the 20 Virginia Department of Elections, correct? 21 A. Well, I believe there was a subsequent 22 e-mail from Mr. Latham in which he explained that 23 he had included correspondence from voters who 24 later affirmed their citizenship. He never 25 mentioned that he had included registration</p>	<p style="text-align: right;">Page 127</p> <p>1 applications of those same voters. 2 Q. My question was: Isn't it true that 3 the inclusion of Ms. Focht's voter registration 4 application in Exhibit 12 of Alien Invasion II 5 was not the fault of the Virginia Department of 6 Elections? 7 MR. LOCKERBY: Object to the form. 8 Asked and answered. 9 THE WITNESS: They were not sent to us 10 by the Virginia Department of Elections, no. 11 BY MR. TEPE: 12 Q. But PILF blamed the Virginia 13 Department of Elections for Ms. Focht's 14 application getting into Exhibit 12. Isn't that 15 right? 16 MR. LOCKERBY: Object to the form. 17 THE WITNESS: I'm not aware of that 18 accusation. 19 MR. TEPE: Do you want to take a 20 break? 21 MR. LOCKERBY: This is probably a good 22 time. 23 MR. TEPE: Why don't we go off the 24 record. 25 THE VIDEOGRAPHER: We are going off</p>
<p style="text-align: right;">Page 128</p> <p>1 the record. The time is 12:07 p.m. 2 (Recess taken.) 3 THE VIDEOGRAPHER: We are back on the 4 record. The time is 12:18 p.m. 5 BY MR. TEPE: 6 Q. Still on the topic of Alien Invasion 7 II, Mr. Johnson, let's discuss an individual who 8 troubled you even before Alien Invasion II was 9 published. Do you know who I'm referring to? 10 A. No. 11 Q. Do you want to go to page 10 of Alien 12 Invasion II? 13 A. I'm on page 10. 14 Q. At the very top left there is an 15 individual named Maureen H. Erickson mentioned in 16 the report. 17 A. I see that. 18 Q. Now, before she was mentioned in Alien 19 Invasion II, you thought she might be a citizen. 20 Is that right? 21 A. I don't recall that. 22 (Exhibit 16 marked for identification 23 and attached hereto.) 24 BY MR. TEPE: 25 Q. The court reporter has handed you</p>	<p style="text-align: right;">Page 129</p> <p>1 what's been marked as Exhibit 16, Bates number 2 210. Do you see that? 3 A. I see it. 4 Q. Do you recognize this document? 5 A. I have seen this before, yes. 6 Q. And it is an e-mail discussing Maureen 7 Erickson, correct? 8 A. Some of it appears to discuss her, 9 yes. 10 Q. So this e-mail chain is dated June 19, 11 2017, right? 12 A. Yes. 13 Q. So that was just two and a half weeks 14 after Alien Invasion II was published, right? 15 A. That sounds about the right amount of 16 time. 17 Q. And I understand there was an article 18 that -- in the media that pointed out that 19 Maureen Erickson was a U.S. citizen, correct? 20 A. Yes. I think I remember the article 21 that her husband or father had informed the 22 media -- they claimed that she was a U.S. 23 citizen, yes. 24 Q. Do you have any basis to dispute that 25 claim?</p>



<p style="text-align: right;">Page 130</p> <p>1 A. Other than her inclusion on the VERIS 2 report, no. 3 Q. That her registration had at one time 4 been canceled? 5 A. Under the designation declared 6 noncitizen, yes. Other than that, I have no 7 reason to. 8 Q. On June 19th you wrote with regard to 9 Ms. Erickson: "It troubled me too." 10 Do you see that? 11 A. I see that. 12 Q. What troubled you? 13 A. I think it troubled me that I could 14 not verify the requirements of UOCAVA. 15 Q. What is UOCAVA? 16 A. The Uniformed and Overseas Citizens 17 Voter Act. I'm not sure what the other letters 18 mean. 19 Q. So just taking a step back, on the 20 VERIS report for Prince William County there was 21 a Guatemalan address, correct? 22 A. I think we determined it was in 23 Guatemala, yes. 24 Q. But just because someone is residing 25 abroad doesn't mean that they can't, if they're</p>	<p style="text-align: right;">Page 131</p> <p>1 citizens, vote in U.S. elections, correct? 2 A. Correct. 3 Q. Now, why did PILF highlight her in the 4 text of Alien Invasion II? Do you recall? 5 A. I believe it was because of the 6 indication that she resided at a foreign address, 7 which was unique to her among those on the list. 8 Q. But at the time, you knew that just 9 residing at a foreign address didn't necessarily 10 indicate one way or another about citizenship, 11 right? 12 A. Correct. 13 Q. In your e-mail you said: "If it 14 wasn't her, it would be someone else they could 15 dig up that was actually a citizen." 16 Do you see that? 17 A. I see that. 18 Q. What did you mean by that? 19 A. I believe I was predicting that the 20 reports would come under scrutiny and that there 21 would be an effort to try to verify that someone 22 on these lists was actually a citizen. Which is 23 what happened. 24 Q. At the time you understood that there 25 was a chance that some of the people identified</p>
<p style="text-align: right;">Page 132</p> <p>1 in Alien Invasion II were in fact citizens, 2 correct? 3 A. Well, I was referring to the claim 4 that Maureen Erickson was a citizen. 5 Q. No, I understand. I'm asking a 6 different question, which is at the time Alien 7 Invasion II was published you recognized that 8 some of those people on the list are citizens, 9 right? 10 A. That's my understanding now. I 11 understand that when they were canceled, they 12 were canceled for citizenship reasons, and they 13 could have since then become citizens. 14 Q. But certainly on June 19th you 15 recognized that, if it wasn't Maureen Erickson, 16 there would be someone else on the list published 17 with Alien Invasion II that would actually be a 18 citizen? 19 MR. LOCKERBY: Object to the form. 20 THE WITNESS: I think I was 21 speculating that could be a possibility, 22 yes. 23 BY MR. TEPE: 24 Q. And in fact, you had knowledge of -- 25 Strike that.</p>	<p style="text-align: right;">Page 133</p> <p>1 So before Alien Invasion II was 2 published, you knew that people listed in the 3 exhibits to Alien Invasion II had reregistered 4 after their registration had been canceled, 5 correct? 6 A. I don't recall having that knowledge 7 at the time necessarily. I recognize now that 8 there's notations on them suggesting that they 9 reregistered. 10 Q. And specifically today we looked at 11 Bedford County as an example, right? 12 A. We did, yes. 13 Q. Are you -- is it your testimony that 14 you didn't look at the records sent to you to 15 verify that these people had not reregistered? 16 MR. LOCKERBY: Objection; misstates 17 the witness's testimony. 18 THE WITNESS: I'm not following the 19 question. 20 BY MR. TEPE: 21 Q. So before Alien Invasion II was 22 published, you possessed information that people 23 listed in the exhibits to Alien Invasion II had 24 reregistered after their registration had been 25 canceled, correct?</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes.</p> <p>2 Q. And before Alien Invasion II was</p> <p>3 published, you had information that people listed</p> <p>4 in the exhibits to Alien Invasion II had affirmed</p> <p>5 their citizenship under oath, correct?</p> <p>6 A. Yes, we had documents showing that</p> <p>7 they checked "Yes" to the citizenship question at</p> <p>8 some point in time.</p> <p>9 Q. And before Alien Invasion II was</p> <p>10 published, you had information indicating that</p> <p>11 what Alien Invasion II calls 5556 noncitizens</p> <p>12 includes people who are likely citizens?</p> <p>13 A. No, I disagree with the</p> <p>14 characterization. And I don't know what "likely"</p> <p>15 means.</p> <p>16 Q. Why was Alien Invasion II published in</p> <p>17 May of 2017 as opposed to some other time?</p> <p>18 A. I don't recall.</p> <p>19 Q. Isn't it the case that there was some</p> <p>20 urgency to get the report published in May of</p> <p>21 2017?</p> <p>22 A. I might recall an e-mail to that</p> <p>23 effect, but I don't know what the urgency was.</p> <p>24 Q. The court reporter has handed you a</p> <p>25 document that was previously marked as VVA</p>	<p style="text-align: right;">Page 135</p> <p>1 Deposition Exhibit 26.</p> <p>2 A. I see that.</p> <p>3 Q. And it has the Bates number 1233. Do</p> <p>4 you see that?</p> <p>5 A. I do.</p> <p>6 Q. Do you recognize this document?</p> <p>7 A. Yes, I've seen it before.</p> <p>8 Q. It's an e-mail that you sent on</p> <p>9 May 17, 2017, to Reagan George. Do you see that?</p> <p>10 A. Yes, I do see that.</p> <p>11 Q. Copying Logan Churchwell?</p> <p>12 A. Yes, I see that.</p> <p>13 Q. Who is also at PILF, right?</p> <p>14 A. He is.</p> <p>15 Q. You wrote to Mr. George: "I don't</p> <p>16 mean to beat a dead horse but some issues on our</p> <p>17 end have us needing to get our report out ASAP.</p> <p>18 Whatever you can do to press this urgency with</p> <p>19 the people running the voter history, that would</p> <p>20 be appreciated."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. Do you recall having conversations</p> <p>24 with Mr. George about this urgency?</p> <p>25 A. I vaguely recall this e-mail. It</p>
<p style="text-align: right;">Page 136</p> <p>1 suggests that I had told him about it before, but</p> <p>2 I don't recall anything specific.</p> <p>3 Q. Well, you say: "I don't mean to beat</p> <p>4 a dead horse." Usually that expression is used</p> <p>5 when you've told someone something before,</p> <p>6 correct?</p> <p>7 A. Right. That's what I mean by it</p> <p>8 suggests I mentioned this to him before.</p> <p>9 Q. And you have no basis to say that you</p> <p>10 didn't tell him that there was some urgency to</p> <p>11 getting Alien Invasion II published?</p> <p>12 A. No, nothing to suggest I did not</p> <p>13 mention this before.</p> <p>14 Q. Was the reason Alien Invasion II was</p> <p>15 published in May of 2017 related to the fact that</p> <p>16 Mr. Adams wanted to piggyback on President</p> <p>17 Trump's announcement of the Voter Fraud</p> <p>18 Commission?</p> <p>19 MR. LOCKERBY: Object to the form.</p> <p>20 THE WITNESS: Right. The phrasing is</p> <p>21 a little vague. I do recall something about</p> <p>22 the timing. I don't remember why</p> <p>23 specifically.</p> <p>24 BY MR. TEPE:</p> <p>25 Q. The court reporter has handed over a</p>	<p style="text-align: right;">Page 137</p> <p>1 document that's been previously marked as VVA</p> <p>2 Deposition Exhibit 27.</p> <p>3 A. I see that.</p> <p>4 Q. Do you recognize this document?</p> <p>5 A. Only vaguely.</p> <p>6 Q. At the bottom of the document, meaning</p> <p>7 the first e-mail, the e-mail from Reagan George</p> <p>8 on May 17, 2017, to a Steve and a Nancy. Do you</p> <p>9 see that?</p> <p>10 A. On May 17th?</p> <p>11 Q. Yes.</p> <p>12 A. Yes, I see that.</p> <p>13 Q. Do you know who Steve and Nancy are?</p> <p>14 A. I mean, I'm familiar with them because</p> <p>15 of some of these correspondence, but I do not</p> <p>16 recall who they are specifically.</p> <p>17 Q. Well, Mr. George here writes:</p> <p>18 "Christian is wanting to get their article</p> <p>19 written ASAP to piggyback on Trump's announcement</p> <p>20 of the Voter Fraud Commission."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. Do you recall telling Mr. George that</p> <p>24 this was the reason why PILF wanted to get Alien</p> <p>25 Invasion II written ASAP?</p>



<p style="text-align: right;">Page 138</p> <p>1 MR. LOCKERBY: Object to the form of</p> <p>2 the question.</p> <p>3 THE WITNESS: I don't recall telling</p> <p>4 Mr. George that that was the reason for the</p> <p>5 urgency.</p> <p>6 BY MR. TEPE:</p> <p>7 Q. Do you recall telling Mr. George that</p> <p>8 there was some other reason for the urgency?</p> <p>9 A. No.</p> <p>10 Q. Do you recall having any</p> <p>11 conversations, not with Mr. George but with</p> <p>12 others at PILF, about the urgency to get Alien</p> <p>13 Invasion II published?</p> <p>14 A. I don't recall having those</p> <p>15 conversations. Other than the fact that Logan</p> <p>16 Churchwell was included on this previous exhibit</p> <p>17 with Mr. George.</p> <p>18 Q. How did you receive the records that</p> <p>19 you used from -- Strike that.</p> <p>20 How did you receive the records that</p> <p>21 election officials sent to you and that were used</p> <p>22 in Alien Invasion II?</p> <p>23 A. Some of them were received in the</p> <p>24 mail, and I think some of them were received via</p> <p>25 e-mail. It's possible but I don't -- it's</p>	<p style="text-align: right;">Page 139</p> <p>1 possible that some registrars gave us removable</p> <p>2 media that included records, but I couldn't say</p> <p>3 for sure.</p> <p>4 Q. And they would have mailed that out to</p> <p>5 you?</p> <p>6 A. That would have also been mailed.</p> <p>7 Q. So none of the records you relied on</p> <p>8 for Alien Invasion II came from people visiting</p> <p>9 the jurisdictions and collecting records,</p> <p>10 correct?</p> <p>11 A. No, I think some of them were</p> <p>12 collected in person.</p> <p>13 Q. Which ones?</p> <p>14 A. I don't recall the specific</p> <p>15 jurisdictions.</p> <p>16 Q. Well, Alien Invasion -- excuse me,</p> <p>17 Exhibit 1 to Alien Invasion II came by e-mail</p> <p>18 from the Virginia Department of Elections,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the other bulk of records that you</p> <p>22 used for Alien Invasion II are contained in</p> <p>23 Exhibit 12, correct? The voter registration</p> <p>24 applications?</p> <p>25 A. Exhibit 12 was the registration</p>
<p style="text-align: right;">Page 140</p> <p>1 applications.</p> <p>2 Q. And how did PILF come to obtain those</p> <p>3 records?</p> <p>4 A. I believe individual registrars sent</p> <p>5 us VERIS reports that pertained to their specific</p> <p>6 jurisdictions, and we then asked the registrars</p> <p>7 for applications for anyone included on those</p> <p>8 lists in a subsequent request.</p> <p>9 MR. TEPE: Break for lunch?</p> <p>10 THE WITNESS: Sure.</p> <p>11 MR. LOCKERBY: Works for me.</p> <p>12 THE VIDEOGRAPHER: We are going off</p> <p>13 the record. The time is 12:46 p.m.</p> <p>14 (Recess taken.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 141</p> <p>1 -----</p> <p>2 AFTERNOON SESSION</p> <p>3 1:17 p.m.</p> <p>4 -----</p> <p>5 THE VIDEOGRAPHER: We are back on the</p> <p>6 record. The time is 1:17 p.m.</p> <p>7 BY MR. TEPE:</p> <p>8 Q. Mr. Johnson, you understand you're</p> <p>9 still under oath, correct?</p> <p>10 A. I do understand that.</p> <p>11 Q. Have you ever discussed the Alien</p> <p>12 Invasion reports with a prosecutor?</p> <p>13 A. I have not, no.</p> <p>14 Q. Have you ever discussed with a</p> <p>15 prosecutor the subject of a noncitizen voting</p> <p>16 generally?</p> <p>17 A. I don't believe so, no.</p> <p>18 Q. Have you ever discussed the outreach</p> <p>19 to Virginia prosecutors with other PILF</p> <p>20 personnel?</p> <p>21 A. I don't recall.</p> <p>22 Q. You may have?</p> <p>23 A. I may have.</p> <p>24 Q. Now, in Alien Invasion II, as we saw</p> <p>25 earlier in your testimony, PILF recommended</p>

<p style="text-align: right;">Page 142</p> <p>1 prosecution of noncitizen registrants, correct?</p> <p>2 MR. LOCKERBY: Object to the form.</p> <p>3 THE WITNESS: I believe my testimony</p> <p>4 was that we recommended a response from law</p> <p>5 enforcement officials. And that response</p> <p>6 included investigation and, if grounds</p> <p>7 existed, for prosecution.</p> <p>8 BY MR. TEPE:</p> <p>9 Q. And we also discussed that PILF</p> <p>10 thought that voter registration and voting</p> <p>11 history records such as those contained in Alien</p> <p>12 Invasion II made prosecution an easy task,</p> <p>13 correct?</p> <p>14 A. Is that a quote from the report?</p> <p>15 Q. If you want to refresh your</p> <p>16 recollection, you can go to page 16 of Alien</p> <p>17 Invasion II.</p> <p>18 A. Yes, it sounds like you're quoting the</p> <p>19 last paragraph next to the last checkmark on page</p> <p>20 60.</p> <p>21 Q. And this was one of the</p> <p>22 recommendations?</p> <p>23 A. It's in the recommendation section,</p> <p>24 yes.</p> <p>25 Q. And to make that task even easier,</p>	<p style="text-align: right;">Page 143</p> <p>1 PILF actually sent records to prosecutors,</p> <p>2 correct?</p> <p>3 A. I believe so, yes.</p> <p>4 (Exhibit 17 marked for identification</p> <p>5 and attached hereto.)</p> <p>6 BY MR. TEPE:</p> <p>7 Q. The court reporter has just handed you</p> <p>8 what's been marked as Exhibit 17 with the</p> <p>9 beginning Bates number 782.</p> <p>10 Do you see that?</p> <p>11 A. I see that.</p> <p>12 Q. Do you recognize this document?</p> <p>13 A. I've seen it before, yes.</p> <p>14 Q. The first page is an e-mail from you</p> <p>15 to Mr. Adams and others entitled -- or the</p> <p>16 subject line is "Mailing list," correct?</p> <p>17 A. Yes.</p> <p>18 Q. And this is May 26, 2017?</p> <p>19 A. Yes.</p> <p>20 Q. So this is just a few days before</p> <p>21 Alien Invasion II was published, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you write: "Here is the mailing</p> <p>24 list. It should have everyone on the list you</p> <p>25 sent and the people we discussed this morning."</p>
<p style="text-align: right;">Page 144</p> <p>1 Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. And there is also a proposed cover</p> <p>4 letter attached, correct?</p> <p>5 A. Right. It's not in the exhibit, but</p> <p>6 it looks like it's attached to the e-mail.</p> <p>7 Q. You don't have a copy of the -- it's</p> <p>8 the last page.</p> <p>9 A. Oh, last page?</p> <p>10 Q. Yes.</p> <p>11 A. Yes, I see that now.</p> <p>12 Q. This is a draft of a letter that would</p> <p>13 go to the individuals listed in the mailing list,</p> <p>14 correct?</p> <p>15 A. It appears to be, yes.</p> <p>16 Q. The first sentence of the draft letter</p> <p>17 says: "Some people claim there is no voter</p> <p>18 fraud. The enclosed report refutes that claim."</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. Before Alien Invasion II was</p> <p>22 published, did you believe that noncitizen voter</p> <p>23 fraud was a problem?</p> <p>24 A. Before Alien II was published?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 145</p> <p>1 A. Yes, I did.</p> <p>2 Q. And was one of the motivations of</p> <p>3 engaging in the project that resulted in Alien</p> <p>4 Invasion I and Alien Invasion II seeking to find</p> <p>5 proof of voter fraud?</p> <p>6 A. I would characterize that as one of</p> <p>7 the motivations. Maybe not just proof but the</p> <p>8 extent of voter fraud.</p> <p>9 Q. That there was a significant amount of</p> <p>10 it existing, correct?</p> <p>11 A. Well, we were exploring what the</p> <p>12 extent was.</p> <p>13 Q. So this e-mail attaches a list, a</p> <p>14 mailing list, correct? Why don't we take a look</p> <p>15 at that.</p> <p>16 A. It does say that a mailing list is</p> <p>17 attached.</p> <p>18 Q. And in fact, a mailing list was</p> <p>19 attached, correct?</p> <p>20 A. Yes.</p> <p>21 Q. So let's just go through this list.</p> <p>22 The top of the list, there are a bunch of members</p> <p>23 of the general assembly on the mailing list. Is</p> <p>24 that right?</p> <p>25 A. I don't have a copy of the list. It</p>

<p style="text-align: right;">Page 146</p> <p>1 simply says produced in native format.  2 MR. TEPE: Okay. Why don't we just  3 briefly go off the record.  4 THE VIDEOGRAPHER: We are going off  5 the record. The time is 1:24 p.m.  6 (Off the record.)  7 THE VIDEOGRAPHER: We are back on the  8 record. The time is 1:30 p.m.  9 BY MR. TEPE:  10 Q. Okay. So just to begin, we're looking  11 at Exhibit 17, Bates 782, correct, on the front  12 page?  13 A. 782 on the front page of the exhibit?  14 Q. Yes. So this is Exhibit 17.  15 A. Yes.  16 Q. An e-mail from you to Mr. Adams and  17 others attaching a mailing list, correct?  18 A. Correct.  19 Q. And this is May 26, 2017?  20 A. Yes.  21 Q. This is a few days before Alien  22 Invasion II was published, correct?  23 A. Yes.  24 Q. And so this is a list of people that  25 PILF was planning on sending copies of the Alien</p>	<p style="text-align: right;">Page 147</p> <p>1 Invasion II report to, correct?  2 A. I believe so, yeah.  3 Q. If you take a look at the mailing  4 list, on the third page of the mailing list there  5 are a number of commonwealth attorneys listed.  6 Do you see that?  7 A. I see that.  8 Q. There is also the U.S. attorney for  9 the Eastern District of Virginia, correct?  10 A. I see that, yeah.  11 Q. The U.S. attorney for the Western  12 District of Virginia, correct?  13 A. I see that.  14 Q. The deputy assistant attorney general  15 of the United States?  16 A. I see that.  17 Q. And they were sent a copy of the  18 complete Alien Invasion report?  19 A. I don't have personal knowledge that  20 they were sent one. No, I don't.  21 Q. Do you have personal knowledge that  22 they were sent at least a portion of the Alien  23 Invasion II report?  24 A. What I mean is I didn't handle the  25 mailings, so I don't have knowledge if it's</p>
<p style="text-align: right;">Page 148</p> <p>1 complete or incomplete.  2 Q. Okay. But certainly you were aware of  3 the plan to send to prosecutors the Alien  4 Invasion II report, correct?  5 A. Yes.  6 Q. Who was in charge of the mailing? Do  7 you recall?  8 A. I believe Shawna Powell.  9 Q. Are you aware of whether or not any  10 commonwealth attorneys responded to a mailing?  11 A. I don't recall any responses, or  12 having seen any.  13 Q. Do you recall follow-up phone calls  14 that PILF made to prosecutors?  15 A. I do not recall any phone calls.  16 Q. Do you recall follow-up e-mails with  17 prosecutors regarding the Alien Invasion II?  18 A. I don't recall seeing any e-mails  19 from -- that included any prosecutors.  20 (Exhibit 18 marked for identification  21 and attached hereto.)  22 BY MR. TEPE:  23 Q. The court reporter has just handed you  24 an exhibit that's been marked Exhibit 18 with the  25 Bates number 7382. Do you see that?</p>	<p style="text-align: right;">Page 149</p> <p>1 A. I see that.  2 Q. Do you recognize this document?  3 A. I have seen this before.  4 Q. This is an e-mail from you dated  5 June 27, 2017, correct?  6 A. The top e-mail is, yes.  7 Q. And it's to Ms. Powell, Mr. Adams and  8 Mr. Churchwell, correct?  9 A. Correct.  10 Q. And does it appear to be a draft  11 e-mail from Shawna Powell to the Newport News  12 commonwealth attorney?  13 A. It does, yes.  14 Q. And in this letter -- it seems to be  15 the e-mail is in the form of a letter. Is that  16 fair?  17 A. Yes, the body of the e-mail.  18 Q. The draft e-mail?  19 A. The draft e-mail was in the form of a  20 letter.  21 Q. And the draft e-mail says: "Dear  22 Mr. Gwynn, thank you for speaking with me on the  23 phone yesterday. Per our conversation, I have  24 attached the list of noncitizens removed for  25 citizen issues from Newport News' voter rolls</p>

<p style="text-align: right;">Page 150</p> <p>1 from January 1, 2011, to May 22, 2017."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. Does this document refresh your</p> <p>5 recollection that there were phone calls with at</p> <p>6 least one commonwealth attorney?</p> <p>7 A. I don't -- again do not recall having</p> <p>8 heard about this when it happened. But it</p> <p>9 does -- it is an e-mail I've seen before.</p> <p>10 Q. Do you know who was making phone calls</p> <p>11 from PILF to commonwealth attorneys?</p> <p>12 A. The specific one seems to indicate</p> <p>13 that Shawna at least spoke with the attorney in</p> <p>14 Newport News.</p> <p>15 Q. Do you know of anyone else having</p> <p>16 phone calls with commonwealth attorneys?</p> <p>17 A. One -- I recall an e-mail discussing a</p> <p>18 meeting that Mr. Adams intended to have with a</p> <p>19 commonwealth attorney or a U.S. attorney. Other</p> <p>20 communications like this, I do not recall.</p> <p>21 (Exhibit 19 marked for identification</p> <p>22 and attached hereto.)</p> <p>23 BY MR. TEPE:</p> <p>24 Q. The court reporter has marked as</p> <p>25 Exhibit 19 a document with Bates number 13405.</p>	<p style="text-align: right;">Page 151</p> <p>1 Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. You just previously testified that you</p> <p>4 recall discussing a meeting Mr. Adams intended to</p> <p>5 have with either a commonwealth attorney or a</p> <p>6 U.S. attorney, correct?</p> <p>7 A. I did say that, yes.</p> <p>8 Q. Taking a look at this document, does</p> <p>9 this refresh your recollection?</p> <p>10 A. Looking at this, I think this is the</p> <p>11 e-mail that I was remembering.</p> <p>12 Q. Okay. So let's start with the e-mail</p> <p>13 at the bottom, November 21st. It's on the second</p> <p>14 page. November 21, 2016, at 9:30 a.m., an e-mail</p> <p>15 from Mr. Adams. Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. He says: "The list of alien name</p> <p>18 printouts not in our report. Remember, we did</p> <p>19 not put them all in as I recall. Also voter</p> <p>20 history, voter names if you have them. I'm</p> <p>21 talking to U.S. attorney in charge of prosecuting</p> <p>22 them early afternoon. Do so as soon as possible.</p> <p>23 Thanks, very important."</p> <p>24 Do you see that?</p> <p>25 A. I see that.</p>
<p style="text-align: right;">Page 152</p> <p>1 Q. And then you respond at 9:42 a.m., the</p> <p>2 same day to Mr. Adams saying you will look ASAP.</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. So as I understand, Mr. Adams is</p> <p>6 looking for the names of the people who were used</p> <p>7 to support Alien Invasion I, correct?</p> <p>8 A. Yes, I believe that's what he's asking</p> <p>9 for.</p> <p>10 Q. And then in the e-mail above that he</p> <p>11 specifies that "I'm meeting with EDVA US</p> <p>12 attorney's office." Do you see that?</p> <p>13 A. I do see that.</p> <p>14 Q. And then you respond: "Gotcha. I'll</p> <p>15 send what we have and check with Reagan on</p> <p>16 names."</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. That's Reagan George?</p> <p>20 A. That's what Reagan refers to.</p> <p>21 Q. And then Mr. Adams responds: "I'm</p> <p>22 more worried about getting the other counties we</p> <p>23 have alien removal lists from. That's an ASAP</p> <p>24 project. The report did not include them."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 153</p> <p>1 A. I see that.</p> <p>2 Q. So am I understanding this correctly</p> <p>3 that in Alien Invasion I, some of the records</p> <p>4 were included and some were not, correct?</p> <p>5 A. Records meaning VERIS reports?</p> <p>6 Q. As an example, yes.</p> <p>7 A. Yes.</p> <p>8 Q. So as we discussed earlier, Alien</p> <p>9 Invasion I had a VERIS report from Prince William</p> <p>10 County but not the other counties?</p> <p>11 A. Correct.</p> <p>12 Q. And so is this Mr. Adams here asking</p> <p>13 for the records for the other counties?</p> <p>14 MR. LOCKERBY: Object to the form.</p> <p>15 THE WITNESS: That's how I understood</p> <p>16 this, yes.</p> <p>17 BY MR. TEPE:</p> <p>18 Q. That's how you understood it?</p> <p>19 A. (Nodding head.)</p> <p>20 Q. And then also was he requesting the</p> <p>21 analysis that would match these registrants with</p> <p>22 voter history?</p> <p>23 A. That's what it sounds like, yes.</p> <p>24 Q. And then Mr. Adams wrote: "Remember,</p> <p>25 this was intended to be a turnkey prosecution for</p>

<p style="text-align: right;">Page 154</p> <p>1 officials. I could hand them the report and they 2 could virtually get a grand jury indictment." 3 Do you see that? 4 A. I see that. 5 Q. Do you recall whether or not you 6 provided the lists and records requested by 7 Mr. Adams? 8 A. I don't recall if I did. I don't know 9 why I would not have, though. 10 Q. Do you recall following up with 11 Mr. George about this? 12 A. I don't recall that either. 13 (Exhibit 20 marked for identification 14 and attached hereto.) 15 BY MR. TEPE: 16 Q. The court reporter has handed you 17 what's been marked as Exhibit 20 with Bates 18 number 3261. 19 Do you recognize this document? 20 A. I've seen this before, I think, yeah. 21 Q. This is an e-mail from you to 22 Mr. George on November 21st at 9:48 a.m. 23 A. Yes. 24 Q. And so this was just a few minutes 25 after Mr. Adams had e-mailed his request that we</p>	<p style="text-align: right;">Page 155</p> <p>1 saw in the previous exhibit? 9:30 p.m. 2 A. Yes, that sounds right. It looks 3 right. 4 Q. The first e-mail. 5 A. This one? 6 MR. HANSON: The second page. 7 THE WITNESS: Yeah, that's after the 8 first e-mail from Mr. Adams. 9 BY MR. TEPE: 10 Q. So you got the e-mail from Mr. Adams 11 at 9:30 requesting this information, right? 12 A. Right. 13 Q. And then 18 minutes later you follow 14 up with Mr. George, correct? 15 A. Yes. 16 Q. And you wrote: "Reagan, Christian is 17 meeting with U.S. attorney's office today. Need 18 info ASAP." 19 Do you see that? 20 A. I see that. 21 Q. Do you recall getting information from 22 Mr. George? 23 A. I don't recall if I got it from him or 24 not. 25 Q. Would your answer be the same as to</p>
<p style="text-align: right;">Page 156</p> <p>1 what I asked before, that you don't recall but 2 you have no reason to believe that you would not 3 have provided Mr. Adams with the information he 4 requested? 5 A. Not necessarily. I can only speak to 6 what I might have done. I don't know about 7 Mr. George's responsiveness. 8 Q. Right. But you would -- if you were 9 the one receiving it, you would know that, right? 10 A. If I did receive it, then I would have 11 sent it to Christian. 12 Q. Do you know if Mr. Adams met with this 13 EDVA U.S. attorney prosecutor? 14 A. I don't recall if he did or not. 15 Q. Are you aware of any other instances 16 in which Mr. Adams may have met with law 17 enforcement to discuss the Alien Invasion 18 reports? 19 A. I don't recall other instances. 20 Q. Are you aware of any instances in 21 which someone else affiliated with PILF other 22 than Mr. Adams met with law enforcement to 23 discuss the Alien Invasion reports? 24 A. No. 25 (Exhibit 21 marked for identification</p>	<p style="text-align: right;">Page 157</p> <p>1 and attached hereto.) 2 BY MR. TEPE: 3 Q. The court reporter has just handed you 4 a document that's been marked as Exhibit 21 with 5 the Bates number 7468. 6 Do you recognize this document? 7 A. Vaguely. 8 Q. What do you recognize it to be? 9 A. It's an e-mail between myself and 10 Logan Churchwell regarding -- the subject says 11 Alabama letter. 12 Q. Is that a shorthand for a letter that 13 was to be sent to Attorney General Sessions? 14 A. It looks like it was. 15 Q. So this e-mail is dated October 11, 16 2018, correct? 17 A. Yes. 18 Q. And attached to that letter is an 19 edited version of a PILF press release, correct? 20 A. Yes. 21 Q. Now, this letter -- excuse me. Strike 22 that. 23 This press release states, this draft 24 press release states: "Public Interest Legal 25 Foundation today praised a congressional letter</p>



<p style="text-align: right;">Page 158</p> <p>1 directed to U.S. Attorney Jeff Sessions urging 2 that federal prosecutors dedicate resources to 3 investigation and pursue noncitizens casting 4 ballots." 5 Do you see that? 6 A. I see that. 7 Q. This letter was signed by 23 members 8 of Congress. Do you see that? 9 A. I see that. 10 Q. And then two paragraphs below that the 11 press release states: "The letter marks 12 particular concern for 'sanctuary' cities and 13 counties which 'already refuse to cooperate with 14 federal immigration authorities' and could 15 tolerate 'false claims of citizenship being made 16 during voter registration.'" 17 Do you see that? 18 A. I see that. 19 Q. "The letter" -- continuing on the 20 press release: "The letter references the Public 21 Interest Legal Foundation's August 2018 report 22 'Safe Spaces: How Sanctuary Cities Are Giving 23 Cover to Noncitizens on the Voter Rolls' which 24 documented over 3100 incidences of noncitizen 25 registration."</p>	<p style="text-align: right;">Page 159</p> <p>1 Do you see that? 2 A. I see that. 3 Q. Do you know how Congress -- these 4 Congress members, these 23 members of Congress in 5 their letter came to obtain the Safe Spaces 6 report of PILF? 7 A. I'm not familiar with how they might 8 have. 9 Q. Are you aware of whether or not PILF 10 worked with members of Congress on their letter 11 to Attorney General Sessions? 12 A. I'm not familiar. I don't recall if 13 they did or not. 14 Q. And then in the next paragraph the 15 press release states: "'The Foundation 16 appreciates Rep. Mo Brooks' leadership in 17 Congress and his efforts to keep this matter on 18 the minds of DOJ leadership,' PILF Communications 19 and Research Director Logan Churchwell said." 20 Do you see that? 21 A. I see that. 22 Q. The quote continues: "We can't 23 underestimate the deterrent power that 24 prosecution carries here. The Foundation will be 25 providing new investigative leads to U.S.</p>
<p style="text-align: right;">Page 160</p> <p>1 Attorneys in the weeks ahead." 2 Do you see that? 3 A. I do see that. 4 Q. Are you aware of the new investigative 5 leads to U.S. attorneys that is referenced here 6 in this press release? 7 A. I believe I'm familiar with one 8 instance. 9 Q. What instance is that? 10 A. I believe Mr. Churchwell transmitted a 11 list of potential noncitizens to the U.S. 12 attorney's office in Texas. I think El Paso 13 specifically. 14 Q. Are you aware of any additional 15 communications with U.S. attorneys with respect 16 to individuals residing in Virginia? 17 A. No, I'm not familiar. 18 Q. The sentence that says "We can't 19 underestimate the current power that prosecution 20 carries here." 21 Do you see that? 22 A. I do. 23 Q. Do you agree with that statement? 24 A. I agree that prosecution carries with 25 it the power to deter future crime.</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. Would you agree that prosecution -- 2 Strike that. 3 Would you agree with the statement 4 that investigation by prosecutors would carry 5 with it deterrent power? 6 A. Not in and of itself. 7 Q. Why is that? 8 A. Well, investigations are often not 9 public whereas prosecutions typically are. You 10 usually can't be deterred by something you don't 11 know about. 12 Q. Any other basis? 13 A. I can't think of any. 14 Q. Your answer said investigations are 15 often not public whereas prosecutions typically 16 are. Is that right? 17 A. I believe that was my testimony. 18 Q. So if an investigation was publicized, 19 do you believe that would have some deterrent 20 value? 21 A. Yeah, it could. 22 Q. Do you believe that if people were 23 accused publicly of engaging in illegal conduct, 24 that that could potentially deter other people 25 from engaging in conduct similar to that alleged?</p>



<p style="text-align: right;">Page 162</p> <p>1 A. Well, it depends on who is doing the 2 accusing.</p> <p>3 Q. How so?</p> <p>4 A. If law enforcement was to accuse 5 someone of a crime, that would carry more weight 6 than if, say, I did it personally. The deterrent 7 effect would be, I think, greater if the 8 accusation came from someone with the power to 9 investigate or prosecute.</p> <p>10 Q. You can put that document aside. 11 Were you involved in efforts to 12 promote the Alien Invasion reports?</p> <p>13 A. Yes.</p> <p>14 Q. What was your role in that?</p> <p>15 A. Well, I appeared before the Privileges 16 and Elections Committee of the Virginia general 17 assembly, and I believe I mentioned an appearance 18 on the Bret Baier show.</p> <p>19 Q. Do you recall other activities that 20 you engaged in to promote the Alien Invasion 21 reports?</p> <p>22 A. I don't recall any other promotion, 23 no.</p> <p>24 Q. Who was in charge of the effort to 25 promote the Alien Invasion reports at PILF?</p>	<p style="text-align: right;">Page 163</p> <p>1 A. To various -- to varying degrees it 2 was a group effort.</p> <p>3 Q. Was anyone in charge of that effort?</p> <p>4 A. The second Alien Invasion report when 5 it was published, we had hired Logan Churchwell 6 as our communications director. He did most of 7 the promotion, to my knowledge, of the second 8 report in addition to Mr. Adams, whatever 9 appearances he may have done. But I would not 10 say someone was in charge.</p> <p>11 Q. But there was an effort to widely 12 disseminate the Alien Invasion reports, correct?</p> <p>13 MR. LOCKERBY: Object to the form.</p> <p>14 THE WITNESS: There was an effort to 15 disseminate, yes.</p> <p>16 BY MR. TEPE:</p> <p>17 Q. So with respect to Alien Invasion I, 18 do you recall PILF issuing a press release?</p> <p>19 A. I do.</p> <p>20 (Exhibit 22 marked for identification 21 and attached hereto.)</p> <p>22 BY MR. TEPE:</p> <p>23 Q. The court reporter has handed you 24 Exhibit 22 with the Bates 13683. 25 Do you recognize this document?</p>
<p style="text-align: right;">Page 164</p> <p>1 A. I think I've seen it, but I don't -- I 2 don't remember having seen it.</p> <p>3 Q. The first e-mail appears to be an 4 e-mail press release dated October 4, 2016. Is 5 that right?</p> <p>6 A. Yes.</p> <p>7 Q. And was this sent to a media list that 8 PILF keeps?</p> <p>9 A. It was sent to a media list. I don't 10 know who the recipients were based on looking at 11 this.</p> <p>12 Q. The subject line says "1000 plus 13 noncitizens discovered on voter rolls in 14 Virginia." Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And then when you turn the page over, 17 the press release begins: "A Public Interest 18 Legal Foundation investigation has uncovered over 19 1000 noncitizens who have registered to vote in 20 just eight of Virginia's 132 voting 21 jurisdictions."</p> <p>22 Do you see that?</p> <p>23 A. I see that.</p> <p>24 Q. It continues: "These ineligible 25 voters have cast nearly 200 ballots in American</p>	<p style="text-align: right;">Page 165</p> <p>1 elections. Each fraudulent registration and vote 2 is a potential felony."</p> <p>3 Do you see that?</p> <p>4 A. I do see that.</p> <p>5 Q. And so sending a press release to 6 media was one activity engaged in by PILF to 7 publicize Alien Invasion I, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And weren't there appearances on TV as 10 well to promote Alien Invasion I?</p> <p>11 A. I'm not recalling any specifically.</p> <p>12 Q. Do you recall Alien Invasion I being 13 unveiled on TV exclusively with Fox &amp; Friends?</p> <p>14 A. Vaguely. I recall from an earlier 15 e-mail you showed me that Christian mentioned an 16 appearance on Fox.</p> <p>17 (Exhibit 23 marked for identification 18 and attached hereto.)</p> <p>19 MR. TEPE: The court reporter has just 20 marked and handed to the witness what has 21 been marked as Exhibit 23, a document with 22 Bates number 5600.</p> <p>23 BY MR. TEPE:</p> <p>24 Q. Do you see that?</p> <p>25 A. I see that.</p>

<p style="text-align: right;">Page 166</p> <p>1 Q. And what does it appear to be?</p> <p>2 A. It's an e-mail at the top from me to</p> <p>3 Christian copying Reagan George and Shawna</p> <p>4 Powell. And the e-mail below that is an e-mail</p> <p>5 from Mr. Adams, I believe, to -- it doesn't say</p> <p>6 who it's to.</p> <p>7 Q. But presumably it's to you since</p> <p>8 you're responding to it, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And this e-mail is dated September</p> <p>11 30th from Mr. Adams?</p> <p>12 A. Yes.</p> <p>13 Q. And Mr. Adams writes: "I need to get</p> <p>14 the Fox News producers a near final version of</p> <p>15 the report in the early afternoon. I will be on</p> <p>16 Fox &amp; Friends in the a.m. to talk about it."</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. Then it continues: "Realize the most</p> <p>20 important thing is the summary."</p> <p>21 Did you talk about the summary of the</p> <p>22 Alien Invasion II report?</p> <p>23 A. I think that's what he's referring to.</p> <p>24 Q. "Nobody there will read past that so</p> <p>25 the summary has to look good and easy to read and</p>	<p style="text-align: right;">Page 167</p> <p>1 avoid any legalese."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. Then you respond: "Understood. We'll</p> <p>5 talk and I'll have it to you by then."</p> <p>6 Do you recall any other television</p> <p>7 appearances by Mr. Adams in promoting the Alien</p> <p>8 Invasion I report?</p> <p>9 A. I do not recall any.</p> <p>10 Q. But there -- do you recall doing a</p> <p>11 phone interview with a radio station to promote</p> <p>12 Alien Invasion I?</p> <p>13 A. Me?</p> <p>14 Q. Yes.</p> <p>15 A. Vaguely.</p> <p>16 (Exhibit 24 marked for identification</p> <p>17 and attached hereto.)</p> <p>18 MR. TEPE: The court reporter has just</p> <p>19 handed the witness a document marked</p> <p>20 Exhibit 24 with Bates number 44022.</p> <p>21 BY MR. TEPE:</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. I don't recall this document.</p> <p>24 Q. It does show, though, an e-mail</p> <p>25 Mr. Adams sent to you on October 3, 2016, yes?</p>
<p style="text-align: right;">Page 168</p> <p>1 A. Yes.</p> <p>2 Q. And the subject line is "KTRH Radio</p> <p>3 Texas interview request."</p> <p>4 A. Yes.</p> <p>5 Q. And Mr. Adams wrote: "Noel, please do</p> <p>6 it."</p> <p>7 Is that him asking you to do the</p> <p>8 interview with KTRH Radio in Houston, Texas?</p> <p>9 A. It appears to be, yes.</p> <p>10 Q. And then he followed up: "Remember,</p> <p>11 short phrases, non-legalese."</p> <p>12 Do you see that?</p> <p>13 A. I do see that.</p> <p>14 Q. What did you understand him to mean by</p> <p>15 that?</p> <p>16 A. To speak in terms that nonlawyers</p> <p>17 would understand.</p> <p>18 Q. And what does that mean, nonlawyers</p> <p>19 would understand?</p> <p>20 A. Don't use legal terms of art.</p> <p>21 Q. Such as?</p> <p>22 A. Perhaps language from the statutes</p> <p>23 involved. I don't know. I don't recall what he</p> <p>24 meant by that or whether I had anything in mind.</p> <p>25 Q. What else did PILF do to promote Alien</p>	<p style="text-align: right;">Page 169</p> <p>1 Invasion I?</p> <p>2 A. You're talking about other than what</p> <p>3 you have presented to me so far?</p> <p>4 Q. These are just examples. What do you</p> <p>5 recall other than some television, some radio, a</p> <p>6 press release?</p> <p>7 A. We printed -- well, I'm not sure.</p> <p>8 Nothing is coming to mind other than those things</p> <p>9 you mentioned.</p> <p>10 Q. Anything on Twitter?</p> <p>11 A. We likely posted on Twitter.</p> <p>12 Q. Facebook?</p> <p>13 A. And Facebook.</p> <p>14 Q. Did you interview -- I should say did</p> <p>15 PILF do interviews to various print publications?</p> <p>16 A. It's likely, although I'm not</p> <p>17 remembering any of them specifically.</p> <p>18 Q. Does -- to your knowledge, does PILF</p> <p>19 do anything to attract a number of visits to the</p> <p>20 PILF website?</p> <p>21 A. It's been some time since I've looked</p> <p>22 at it, but at one point in time whomever hosted</p> <p>23 our website had a feature where we could see</p> <p>24 visitor numbers.</p> <p>25 Q. Who at PILF has access to this</p>

<p style="text-align: right;">Page 170</p> <p>1 information about the number of visitors to  2 PILF's website?  3 A. It's likely that Travis Phillips would  4 have access to that information.  5 Q. Who is Travis Phillips?  6 A. He's someone who consults with us on  7 computer and IT matters.  8 Q. Is he a PILF employee?  9 A. I think he's an independent contractor  10 but I'm not entirely sure.  11 Q. Was he working with PILF at the time  12 Alien Invasion I was published?  13 A. Yes.  14 Q. And so to your knowledge, he would be  15 the individual best able to answer any questions  16 about the number of visitors to PILF's website?  17 MR. LOCKERBY: Object to the form.  18 Calls for speculation.  19 THE WITNESS: He would be the person  20 who could most easily access that  21 information, but I don't know what knowledge  22 he has of it as a universe.  23 BY MR. TEPE:  24 Q. Do you recall PILF engaging in similar  25 promotional efforts to publicize the Alien</p>	<p style="text-align: right;">Page 171</p> <p>1 Invasion II report?  2 A. I do.  3 Q. So there were appearances on TV?  4 A. There were.  5 Q. Radio appearances?  6 A. Likely, although I can't recall the  7 specifics.  8 Q. Interviews to print media?  9 A. Same answer.  10 Q. Twitter?  11 A. Yes.  12 Q. Facebook?  13 A. Yes.  14 Q. Press releases?  15 A. Yes.  16 Q. Do you recall Mr. Adams going on  17 Tucker Carlson's Fox News show with the rollout  18 of Alien Invasion II?  19 A. I have some recollection, yes.  20 (Exhibit 25 marked for identification  21 and attached hereto.)  22 BY MR. TEPE:  23 Q. The court reporter has just handed you  24 a document marked Exhibit 25 with Bates number  25 770.</p>
<p style="text-align: right;">Page 172</p> <p>1 Do you see that?  2 A. I do see that.  3 Q. Do you recognize this?  4 A. I have seen this before.  5 Q. You're at the top of the e-mail chain.  6 Is that right?  7 A. Yes.  8 Q. But the e-mail chain begins, does it  9 not, with an e-mail from Mr. Adams to Tucker  10 Carlson?  11 A. Yes.  12 Q. At his Gmail address. Is that right?  13 A. Tucker's Gmail address?  14 Q. Yes.  15 A. Yes.  16 Q. It's dated May 26, 2017?  17 A. Yes.  18 Q. And Mr. Adams said: "Tucker, embargo  19 release on a report we are putting out Tuesday."  20 Do you see that?  21 A. Yes.  22 Q. And then it lists some key findings  23 and bullet points. Is that right?  24 A. I see those, yeah.  25 Q. And then someone by the name of Kelly</p>	<p style="text-align: right;">Page 173</p> <p>1 McNally responds to Mr. Adams later that day,  2 correct?  3 A. Yes.  4 Q. She's the senior booker for Tucker  5 Carlson Tonight?  6 A. That's what it says in her signature  7 line.  8 Q. And she wrote: "I want to reach out  9 to see if you are available on Tuesday to join  10 Tucker on this report."  11 Do you see that?  12 A. Yes.  13 Q. And then Mr. Adams responds yes. Do  14 you see that?  15 A. Yes.  16 Q. And then it appears he forwards this  17 to you. Would you agree with that?  18 A. Yes.  19 Q. So on May 26 at 5:51 p.m. he asks:  20 "Can you get me a few pages of just the screen  21 captures of some 'No' check boxes?"  22 Do you see that?  23 A. I see that.  24 Q. What is he referring to there? Do you  25 know?</p>

<p style="text-align: right;">Page 174</p> <p>1 A. He's referring to copies of 2 applications for voter registration on which the 3 applicant marked the citizenship question "No." 4 Q. Now, do you recall when we were 5 talking about the voter registration applications 6 included with Alien Invasion II only a fraction 7 of those had "No" marked in the check box, right? 8 A. Yes. 9 Q. But those are the ones that Mr. Adams 10 wants copies of, correct? 11 MR. LOCKERBY: Object to the form of 12 the question. Lack of foundation. 13 THE WITNESS: He's asking for copies, 14 screen captures of applications on which the 15 applicant checked "No." 16 BY MR. TEPE: 17 Q. And he says: "Pick ones with 18 outlandish foreign names, particularly Middle 19 Eastern if they exist." 20 Do you see that? 21 A. I see that. 22 Q. Do you know why he was asking for such 23 names? 24 A. No. He didn't tell me. 25 Q. Do you have an understanding or a</p>	<p style="text-align: right;">Page 175</p> <p>1 belief -- Strike that. 2 Do you have a belief as to why he was 3 asking for such names? 4 A. No. 5 MR. LOCKERBY: Object to the form of 6 the question. Lack of foundation. Calls 7 for opinion testimony by a lay witness. 8 THE WITNESS: No, I don't. 9 BY MR. TEPE: 10 Q. His e-mail continues: "The more 11 outlandish the handwriting the better. The more 12 obviously foreign the better." 13 Do you see that? 14 A. I see that. 15 Q. What did you understand him to be 16 asking there? 17 MR. LOCKERBY: Object to the form. 18 MR. TEPE: What's the basis for your 19 objection? 20 MR. LOCKERBY: For one thing, there's 21 no -- you're asking him what you understood 22 him to be asking for. There is no question 23 there. 24 MR. TEPE: I don't understand. 25 MR. LOCKERBY: There is also lack of</p>
<p style="text-align: right;">Page 176</p> <p>1 foundation. Again, it calls for opinion 2 testimony. 3 MR. TEPE: What's the lack of 4 foundation? He said that he received this 5 e-mail. I'm asking about an e-mail he 6 received from Mr. Adams. 7 MR. LOCKERBY: Well, he doesn't know 8 what the author of the e-mail intended. 9 MR. TEPE: I'm not asking those 10 questions. 11 MR. LOCKERBY: I'm just going to 12 object to form. Pardon me? 13 MR. TEPE: I'm not asking for his -- 14 what Mr. Adams was asking. I'm asking for 15 his interpretation and understanding of what 16 Mr. Adams was asking. 17 I mean, if there is a foundational 18 problem with my question, I want to fix it. 19 So that's what I'm trying to understand. 20 MR. LOCKERBY: It might help if we had 21 the question read back at this point. 22 BY MR. TEPE: 23 Q. Okay. So on May 26, 2017, Mr. Adams 24 sent you an e-mail at 5:51 p.m., correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. And he asked you a question saying: 2 "Can you get me a few pages of just the screen 3 captures of some 'No' check boxes?" 4 Do you see that? 5 A. I see that. 6 Q. And I believe your testimony before 7 was that this was in reference to the voter 8 registration applications that you had in which 9 applicants had checked "No" in the citizenship 10 box. 11 A. Yes. 12 Q. And we had established that of those 13 764 voter registration applications, PILF had 14 reviewed only I think 40-something that had "No" 15 check boxes marked, correct? 16 A. I don't know if that number is correct 17 but... 18 Q. The numbers in Alien Invasion II. 19 A. But again, I don't know if the 46 or 20 47 -- 21 Q. Those are a small number of the 764, 22 correct? 23 A. Yes. Only a fraction of them were 24 "No" check boxes. 25 Q. But those were the ones that Mr. Adams</p>

Page 178	Page 179
<p>1 wanted to send to Tucker Carlson's people, 2 correct? 3 A. Yes. 4 Q. And then in asking this question, 5 Mr. Adams instructed you: "Pick ones with 6 outlandish foreign names, particularly Middle 7 Eastern if they exist." 8 Do you see that? 9 A. I see that. 10 Q. And he said: "The more outlandish the 11 handwriting the better, the more obviously 12 foreign the better." 13 Do you see that? 14 A. I see that. 15 Q. What is your understanding as to why 16 he was asking for foreign names? 17 A. My answer was I don't know. He did 18 not tell me. 19 Q. So you have no understanding as to why 20 he was making that request? 21 A. Those are the ones he wanted. 22 Q. And you have no understanding as to 23 why he wanted those particular names? 24 A. No, I do not recall why. 25 Q. He said: "Ideally they will have</p>	<p>1 voted, but I don't know if you can find that. 2 The degree of outlandishness in the name is just 3 as important as whether they voted." 4 Do you see that? 5 A. I see that. 6 Q. "They just need a half dozen or so. 7 Find the best ones. Crazy names. I assume I 8 don't need to explain this in further detail." 9 Do you see that? 10 A. I see that. 11 Q. Did he need to explain this in further 12 detail to you? 13 A. Apparently not. 14 Q. Because you understood what he meant 15 by providing crazy names? 16 A. Well, I understood what he was asking 17 for. My understanding wasn't necessarily based 18 on the phrase "crazy names." 19 Q. You responded: "I can dig those out." 20 Correct? 21 A. I did. 22 Q. Do you recall what crazy names you dug 23 out? 24 A. I did not dig them out. 25 Q. Who did?</p>
Page 180	Page 181
<p>1 A. I believe Logan Churchwell handled 2 this request. 3 Q. Do you recall the names that he picked 4 out? 5 A. I think there is an e-mail in which he 6 transmits them, but I don't recall the names. 7 Q. Were the crazy names that Mr. Adams 8 was requesting, do you believe that they were 9 reflective or representative of all the names 10 listed in the records attached to Alien Invasion 11 II? 12 MR. LOCKERBY: Object to the form. 13 THE WITNESS: I don't have the 14 knowledge to answer that because I don't 15 remember what the names were. 16 BY MR. TEPE: 17 Q. You can put that document aside. 18 Alien Invasion II was released the 19 Tuesday after Memorial Day, correct? 20 A. That sounds right based on the time 21 period. 22 Q. And it was more advantageous to 23 release the report the Tuesday after Memorial 24 Day. Do you agree? 25 MR. LOCKERBY: Object to the form.</p>	<p>1 THE WITNESS: I don't know in which 2 way that would be more advantageous. 3 BY MR. TEPE: 4 Q. Well, do you think it would be more 5 advantageous to release the report the Tuesday 6 after Memorial Day or on Memorial Day? 7 A. Advantageous how? 8 Q. In terms of enabling other people to 9 see the release of Alien Invasion II. 10 A. In my opinion, I think that releasing 11 something on a major holiday would be less 12 advantageous if your goal was to increase 13 viewership. 14 Q. And PILF's goal was to increase the 15 number of people who viewed the Alien Invasion II 16 report, right? 17 A. I would say that was one of our goals. 18 (Exhibit 26 marked for identification 19 and attached hereto.) 20 BY MR. TEPE: 21 Q. The court reporter has handed you 22 what's been marked as Exhibit 26, a document with 23 Bates number 37501. 24 Do you see that? 25 A. I see that.</p>



<p style="text-align: right;">Page 182</p> <p>1 Q. Do you recognize this document?</p> <p>2 A. I do.</p> <p>3 Q. What do you recognize it to be?</p> <p>4 A. It's an e-mail between -- well, among</p> <p>5 PILF employees and some others.</p> <p>6 Q. This e-mail chain is dated October 2,</p> <p>7 2016. Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And it begins with an e-mail from</p> <p>10 Mr. Adams, the subject line "Congratulations</p> <p>11 everyone." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And he says: "Great lesson how to</p> <p>14 generate, create, organize and weaponize</p> <p>15 narrative." And then there is a screenshot of</p> <p>16 the Drudge Report home page. Is that right?</p> <p>17 A. Right.</p> <p>18 Q. And on the Drudge Report he linked to</p> <p>19 an article reporting on the Alien Invasion I</p> <p>20 report, right?</p> <p>21 A. Yes.</p> <p>22 Q. It says: "Report: 1000 plus illegal</p> <p>23 voters in Virginia..." Correct?</p> <p>24 A. I see that, yes.</p> <p>25 Q. Do you have an understanding as to</p>	<p style="text-align: right;">Page 183</p> <p>1 what Mr. Adams was saying by "Great lesson how to</p> <p>2 generate, create, organize and weaponize</p> <p>3 narrative"?</p> <p>4 A. I think he meant that this shows that</p> <p>5 our promotion of the report was effective in that</p> <p>6 it was or appeared on the Drudge Report.</p> <p>7 Q. Well, more than that, in the e-mail</p> <p>8 above Mr. Adams says: "Noel, remember our</p> <p>9 conversation on how important it was to cross the</p> <p>10 1000 mark."</p> <p>11 Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. Do you remember that conversation?</p> <p>14 A. Yes, vaguely.</p> <p>15 Q. And what do you recall?</p> <p>16 A. Discussing that when we received the</p> <p>17 records from Alexandria, that it put the total</p> <p>18 of -- I think the total cancellations from the</p> <p>19 VERIS reports above 1000.</p> <p>20 Q. Why did you answer the total</p> <p>21 cancellations from the VERIS reports instead of</p> <p>22 the total number of noncitizens?</p> <p>23 MR. LOCKERBY: Object to the form.</p> <p>24 Argumentative and it assumes facts not in</p> <p>25 evidence.</p>
<p style="text-align: right;">Page 184</p> <p>1 THE WITNESS: Because the numbers came</p> <p>2 from the VERIS reports.</p> <p>3 BY MR. TEPE:</p> <p>4 Q. And you called --</p> <p>5 A. The number of --</p> <p>6 Q. -- them noncitizens?</p> <p>7 MR. LOCKERBY: Objection.</p> <p>8 THE WITNESS: Say that again.</p> <p>9 BY MR. TEPE:</p> <p>10 Q. And PILF called them noncitizens,</p> <p>11 correct?</p> <p>12 MR. LOCKERBY: Objection. The</p> <p>13 documents speak for themselves.</p> <p>14 THE WITNESS: Yes, we've been over</p> <p>15 what the reports say by now.</p> <p>16 BY MR. TEPE:</p> <p>17 Q. Was Mr. Adams telling you in your</p> <p>18 conversation with him that if you get to higher</p> <p>19 numbers you're more likely to get media</p> <p>20 attention?</p> <p>21 MR. LOCKERBY: Object to the form.</p> <p>22 THE WITNESS: I think that was part of</p> <p>23 what he was saying.</p> <p>24 BY MR. TEPE:</p> <p>25 Q. And then he wrote here to you: "Good</p>	<p style="text-align: right;">Page 185</p> <p>1 example why below and it shows in Drudge</p> <p>2 headline. It was an important psychological</p> <p>3 frontier crossed."</p> <p>4 Do you see that?</p> <p>5 A. I see that.</p> <p>6 Q. And by that do you understand him</p> <p>7 saying by crossing the 1000 mark, that was an</p> <p>8 important psychological frontier crossed?</p> <p>9 A. That's what it says.</p> <p>10 Q. And then you responded: "Amen. Great</p> <p>11 headline."</p> <p>12 A. Yes.</p> <p>13 Q. You can put that document aside.</p> <p>14 Would you agree that being able to get</p> <p>15 higher numbers of purported noncitizens was</p> <p>16 important to PILF?</p> <p>17 A. I think it's what we expected to find.</p> <p>18 Q. That's not what I asked. Would you</p> <p>19 agree that people -- Strike that.</p> <p>20 Would you agree that being able to get</p> <p>21 higher numbers of purported noncitizens was</p> <p>22 important to PILF?</p> <p>23 MR. LOCKERBY: Objection; asked and</p> <p>24 answered.</p> <p>25 THE WITNESS: Yes.</p>



Page 186

1 BY MR. TEPE:

2 Q. You said that you expected to find  
3 high numbers of purported noncitizens on the  
4 voter rolls. Am I understanding you correctly?

5 A. Yes.

6 Q. What was the basis of that  
7 expectation?

8 A. I believe we were aware of a smaller  
9 investigation that had been done in Alexandria on  
10 this very same issue, and based on that small  
11 example we extrapolated statewide. We figured  
12 the number would be quite high.

13 Q. So what you're saying is if the  
14 numbers that you received from Alexandria were  
15 accurate and you extrapolated that statewide, you  
16 would expect to find high numbers of purported  
17 noncitizens. Is that what you're saying?

18 A. That's what I'm saying.

19 Q. Now, you wanted to get above 5000  
20 purported noncitizens, correct?

21 MR. LOCKERBY: Object to the form.

22 THE WITNESS: At some point in time I  
23 believe that became notable.

24 BY MR. TEPE:

25 Q. Notable for the same reasons 1000 was

Page 187

1 notable?

2 A. I'm not sure we established those  
3 reasons.

4 Q. Well, we just discussed how it was  
5 notable to Mr. Adams that by crossing the 1000  
6 threshold for Alien Invasion I, PILF was able to  
7 get prominent placement on the Drudge Report,  
8 correct?

9 A. Right.

10 Q. And so for the same reasons, would you  
11 agree that if PILF were able to eclipse the 5000  
12 mark that too would be helpful to PILF's ability  
13 to reach viewers of its report?

14 A. Yes.

15 (Exhibit 27 marked for identification  
16 and attached hereto.)

17 BY MR. TEPE:

18 Q. The court reporter has just marked as  
19 Exhibit 27 a document with the Bates number 1979.  
20 Do you recognize this document?

21 A. I've seen this before, yes.

22 Q. Now, I believe you had testified  
23 earlier that there were two statewide VERIS  
24 reports applied to PILF by the Virginia  
25 Department of Elections, correct?

Page 188

1 A. They gave us two reports, each for a  
2 different period of time.

3 Q. Correct. And is this e-mail  
4 reflecting the second report that you received?  
5 No, strike that. I'm sorry.

6 So this is -- the first e-mail is an  
7 e-mail from the commissioner of the Virginia  
8 Department of Elections March 28th, right?

9 A. It looks that way, yes.

10 Q. I'm sorry?

11 A. Yes, it looks that way. Yes.

12 Q. And then that got up to a total of  
13 4967 on the list, the VERIS report that you sent  
14 over, right?

15 A. 4976.

16 Q. You said good luck to eclipse the 5000  
17 mark, correct?

18 A. That's what the e-mail says.

19 Q. That's what you said in your e-mail?

20 A. Yes.

21 Q. Why?

22 A. I suppose because 5000 was a clean  
23 number and larger number. The more people that  
24 appeared on these lists the higher the likelihood  
25 that we might accomplish some of the reforms for

Page 189

1 which we were advocating.

2 Q. Such as?

3 A. Such as changes to the federal  
4 registration form or changes to data sharing,  
5 better safeguards up front to prevent ineligible  
6 people from registering.

7 Q. So higher numbers would help PILF  
8 accomplish the policy objectives that it had,  
9 correct?

10 A. Right. If there is a higher number,  
11 then it would draw more attention to the problem.

12 Q. So just going back, when you received  
13 the e-mail from Mr. Cortes, the statewide VERIS  
14 report, this was for the period January 1, 2011,  
15 through March 20, 2017. Do you see that?

16 A. I see that.

17 Q. Okay. And then so the second report  
18 that you got was from March 21st through sometime  
19 in May, right?

20 A. Yeah. I'll take your word for those  
21 dates, but that sounds right.

22 Q. And then you wrote back -- or actually  
23 you forwarded this e-mail from Mr. Cortes to  
24 Mr. Adams, Mr. Churchwell, and you said: "At  
25 long last the VERIS report from Cortes."

<p style="text-align: right;">Page 190</p> <p>1 A. Correct.</p> <p>2 Q. What did you mean by "at long last"?</p> <p>3 A. We had been trying to get this report</p> <p>4 from him for a long time, and he finally provided</p> <p>5 it.</p> <p>6 Q. This was the report that PILF wanted</p> <p>7 to obtain, correct?</p> <p>8 A. Well, getting it from the State meant</p> <p>9 that we could get all the jurisdictions at once.</p> <p>10 So...</p> <p>11 Q. But whether it came from the</p> <p>12 jurisdictions individually or the State, PILF</p> <p>13 wanted this particular report, correct?</p> <p>14 A. Correct. We wanted a VERIS report for</p> <p>15 all jurisdictions in Virginia. The only person</p> <p>16 who had the ability to generate that I believe</p> <p>17 was Mr. Cortes.</p> <p>18 Q. So you received that e-mail from</p> <p>19 Mr. Cortes at 1:25 p.m., correct, on March 28th?</p> <p>20 A. Yes.</p> <p>21 Q. And by 1:57 p.m. you joked: "Already</p> <p>22 nabbed a descendant of George Washington"?</p> <p>23 A. Yes.</p> <p>24 Q. And you pasted a copy of a VERIS</p> <p>25 report entry for a George Washington, Jr. Is</p>	<p style="text-align: right;">Page 191</p> <p>1 that right?</p> <p>2 A. Yes.</p> <p>3 Q. And Mr. Adams responded: "If false</p> <p>4 positive, they will use this one against us." Do</p> <p>5 you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And did you understand Mr. Adams by</p> <p>8 saying "false positive" to mean someone who was</p> <p>9 actually a citizen?</p> <p>10 A. I don't know what I understood at the</p> <p>11 time. That's one possibility, yes.</p> <p>12 Q. That's one possibility?</p> <p>13 A. Yes.</p> <p>14 Q. What's another possibility?</p> <p>15 A. I can't think of any others.</p> <p>16 Q. So it's fair to say that as of March</p> <p>17 28, 2017, PILF recognized that the records that</p> <p>18 they just received from the State of Virginia</p> <p>19 possibly had citizens on the list?</p> <p>20 MR. LOCKERBY: Object to the form.</p> <p>21 THE WITNESS: No, I don't think we had</p> <p>22 any way of -- to verify whether those people</p> <p>23 were citizens.</p> <p>24 BY MR. TEPE:</p> <p>25 Q. Well, you had phone numbers for</p>
<p style="text-align: right;">Page 192</p> <p>1 hundreds of people, right?</p> <p>2 A. I don't know about hundreds, but there</p> <p>3 were phone numbers on some of the applications.</p> <p>4 Q. Right. The applications that you</p> <p>5 didn't want to look at before to determine how</p> <p>6 many had phone numbers, right?</p> <p>7 MR. LOCKERBY: Object to the form.</p> <p>8 THE WITNESS: The applications you did</p> <p>9 not ask me to look at, yes.</p> <p>10 BY MR. TEPE:</p> <p>11 Q. No, I offered. I said if you're not</p> <p>12 sure how many of those applications have phone</p> <p>13 numbers, please go right ahead and look, correct?</p> <p>14 MR. LOCKERBY: Object to the form.</p> <p>15 Counsel is arguing with the witness.</p> <p>16 Counsel could have asked the witness a</p> <p>17 direct question directing him to look at</p> <p>18 them. Instead the question was "Would you</p> <p>19 like to?" Understandably the witness said</p> <p>20 no. No one likes to read through hundreds</p> <p>21 of documents voluntarily.</p> <p>22 BY MR. TEPE:</p> <p>23 Q. You had the phone numbers for at least</p> <p>24 some of the people you had listed in the Alien</p> <p>25 Invasion II. Would you agree with that?</p>	<p style="text-align: right;">Page 193</p> <p>1 A. Yes.</p> <p>2 Q. And PILF didn't call a single one of</p> <p>3 those people, correct?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. You can put that document aside.</p> <p>6 In October of 2017, PILF received a</p> <p>7 letter from a U.S. citizen who complained about</p> <p>8 being included in the Alien Invasion II report,</p> <p>9 correct?</p> <p>10 A. Well, I would have to see the letter</p> <p>11 to know if that date is correct.</p> <p>12 Q. Well, if you don't recall what the</p> <p>13 date was, you do recall that PILF received a</p> <p>14 letter from a U.S. citizen who complained about</p> <p>15 being included in the Alien Invasion II report,</p> <p>16 right?</p> <p>17 A. Well, I think the letter you're</p> <p>18 referring to included the claim that the author</p> <p>19 was a U.S. citizen. Again, I don't have that</p> <p>20 letter in front of me.</p> <p>21 Q. Do you recall that that was a Jean</p> <p>22 Rosen?</p> <p>23 A. I recall the foundation received a</p> <p>24 letter from Ms. Rosen.</p> <p>25 Q. Also PILF received along with that</p>

1 letter copies of her passport?

2 A. That sounds right.

3 Q. But you still considered her to just  
4 be making a claim to citizenship?

5 MR. LOCKERBY: Object to the form.

6 THE WITNESS: That is what I recalled  
7 ten seconds ago.

8 BY MR. TEPE:

9 Q. Do you have a belief as to Ms. Rosen's  
10 citizenship?

11 MR. LOCKERBY: Object to the form.

12 Calls for opinion testimony from a lay  
13 witness, and Ms. Rosen's citizenship is not  
14 a belief.

15 BY MR. TEPE:

16 Q. The question again is do you have a  
17 belief? It's a "yes" or "no" question. Do you  
18 have a belief as to Ms. Rosen's citizenship?

19 A. Do I have a belief?

20 Q. Yes.

21 A. Yes.

22 Q. And what is that belief?

23 A. I have no reason to doubt her claim  
24 that she's a citizen based on what she's provided  
25 to us.

1 Q. And Ms. Rosen's voter registration  
2 application was included in Exhibit 12 to the  
3 Alien Invasion II initially, correct?

4 A. Yes, inadvertently included.

5 Q. And we had discussed earlier that  
6 there was one version, that's the version that's  
7 sitting in front of you, in which there are a  
8 number of voter registration applications that  
9 were subsequently pulled out, correct?

10 A. Yes.

11 (Exhibit 28 marked for identification  
12 and attached hereto.)

13 BY MR. TEPE:

14 Q. The court reporter has marked what is  
15 Exhibit 28, a document with the Bates number  
16 9322.

17 A. Yeah, I see that.

18 Q. Do you recognize this document?

19 A. Yes, I've seen this before, or most of  
20 it I believe.

21 Q. It begins on October 11, 2017, an  
22 e-mail from Shawna Powell to you and  
23 Mr. Churchwell. Do you see that?

24 A. I see that.

25 Q. She wrote: "See attached letter from

1 Jean Rosen regarding her name being used in the  
2 VVA report."

3 Do you see that?

4 A. Yes.

5 Q. And then Mr. Adams responded to that,  
6 asking you to do a nasty cease and desist  
7 letter -- Strike that.

8 Mr. Adams responded to you the same  
9 day with what he felt was the most important  
10 takeaway from the letter. Is that right?

11 A. That's what it says, yes.

12 Q. And the most important takeaway from  
13 the letter, according to Mr. Adams, is that  
14 Ms. Rosen had received a phone call from the  
15 Southern Coalition for Southern Justice. Is that  
16 right?

17 A. Social Justice, yes.

18 Q. Social Justice, I'm sorry.

19 And then Mr. Adams asked you to do a,  
20 quote, nasty cease and desist letter, close  
21 quote, to SCSJ, correct?

22 A. Yes, that's what he asked.

23 Q. And the purpose of this letter was to  
24 get SCSJ to stop talking to people who had been  
25 listed in the Alien Invasion II report, correct?

1 MR. LOCKERBY: Object to the form of  
2 the question.

3 THE WITNESS: That's not how I  
4 understood it.

5 BY MR. TEPE:

6 Q. Oh, you were okay with SCSJ speaking  
7 to registrants listed in Alien Invasion II?

8 A. No. I meant your characterization of  
9 what Mr. Adams was concerned with.

10 Q. Well, what was Mr. Adams concerned  
11 with?

12 A. Not just that they were talking to  
13 them, but that they were telling them certain  
14 things about what we had done with their records  
15 and names.

16 Q. Like publishing them?

17 MR. LOCKERBY: Object to the form.

18 THE WITNESS: No. I believe -- I  
19 believe he was concerned with the fact that  
20 they were calling people at random and  
21 telling them that we had said that they had  
22 committed crimes or things like that.

23 BY MR. TEPE:

24 Q. Well, you don't actually know what  
25 SCSJ told people that they spoke to, correct?

<p style="text-align: right;">Page 198</p> <p>1 A. Yes, I do, because Jean Rosen put it 2 in her letter. 3 Q. Other than Ms. Rosen, are you aware of 4 the contents of communications between SCSJ and 5 people listed in the Alien Invasion II report? 6 A. Specifically words they used? No, I'm 7 not familiar. 8 Q. Well, you're not familiar with any 9 language that they used in those communications, 10 correct? 11 A. I'm familiar with what Jean Rosen said 12 she was told. 13 Q. Right. And I'm asking you about what 14 SCSJ spoke to with other people other than 15 Ms. Rosen. 16 A. When you say "other people," people on 17 the VERIS reports? 18 Q. People who were listed in the exhibits 19 to Alien Invasion II. 20 A. No, I'm not privy to those 21 conversations. 22 Q. Mr. Adams instructed you to defend the 23 report. That's the Alien Invasion II report, 24 correct? 25 A. I see that in his e-mail.</p>	<p style="text-align: right;">Page 199</p> <p>1 Q. And he said: "Make it clear the fault 2 is Virginia's." Close quote. I'm sorry. "Make 3 it clear the fault of Virginia's." Is that 4 correct? 5 A. That's what it says. 6 Q. And you, in a later e-mail, said that 7 you did a search for Exhibit 1 for Rosen and came 8 up with nothing. 9 A. I did say that in this, yes. 10 Q. So Ms. Rosen was another example along 11 with Ms. Gearhart of PILF including her voter 12 registration application in Exhibit 12 that 13 shouldn't have been there, correct? 14 A. Yes. The inclusion was inadvertent. 15 MR. LOCKERBY: I'm going to object to 16 the form of the question, especially the 17 statement "shouldn't have been included." 18 Exhibit 12 is a footnote to a portion -- is 19 referenced in a footnote to a portion of the 20 report. 21 MR. TEPE: I appreciate the speaking 22 objection. I will -- 23 MR. LOCKERBY: I don't appreciate the 24 gratuitous comments about the objections. 25 MR. TEPE: Well, I don't appreciate</p>
<p style="text-align: right;">Page 200</p> <p>1 the speaking objections. 2 MR. LOCKERBY: You said you appreciate 3 it and then you said you don't appreciate 4 it. Those two are mutually exclusive. 5 BY MR. TEPE: 6 Q. Ms. Rosen was one of the people 7 included in Exhibit 12 to Alien Invasion II, 8 correct? 9 A. Her application for voter registration 10 was included inadvertently. 11 Q. The same thing with Ms. Gearhart. Her 12 registration application was included 13 inadvertently, as you would call it, in Exhibit 14 12? 15 MR. LOCKERBY: Object to the form. 16 THE WITNESS: Yes, under her previous 17 name. 18 BY MR. TEPE: 19 Q. Now, at 3:09 p.m. you write: "Her 20 application was provided to us," Exhibit 12, 21 which is not in the cancellation list, which is 22 Exhibit 1. Correct? 23 A. Right. 24 Q. And then you wrote: "Another layer of 25 error on ELECT's behalf."</p>	<p style="text-align: right;">Page 201</p> <p>1 Who is ELECT? 2 A. The Department of Elections. 3 Q. But that's not correct. It wasn't an 4 error on the Virginia Department of Elections, 5 correct? 6 A. I don't know completely their role, 7 but I would not say that it was directly an error 8 on their behalf. 9 Q. Are you saying it was indirectly their 10 error? 11 A. No. In terms of the correspondence 12 that was sent to Ms. Rosen, I wasn't aware of who 13 had sent her that correspondence. 14 Q. What are you talking about, 15 correspondence sent to Ms. Rosen? 16 A. I believe she had been sent 17 correspondence from some election officials 18 regarding her citizenship. 19 Q. Are you talking about a notice of 20 intent to cancel? 21 A. Yes. 22 Q. But Ms. Rosen's registration was not 23 canceled, correct? 24 MR. LOCKERBY: Object to the form. 25 Assumes facts not in evidence and in fact is</p>

<p style="text-align: right;">Page 202</p> <p>1 contrary to the evidence.  2 MR. TEPE: Again --  3 THE WITNESS: I'm not sure --  4 MR. TEPE: You can object to form and  5 not testify.  6 MR. LOCKERBY: I didn't testify.  7 MR. TEPE: You just did testify.  8 MR. LOCKERBY: I objected.  9 MR. TEPE: You just testified to what  10 you believe to be facts in evidence.  11 MR. LOCKERBY: Counsel has an  12 obligation not to ask questions for which  13 there is no factual basis. And in fact  14 there is evidence that at one point  15 Ms. Rosen's registration was canceled. The  16 entire -- the premise of the question is  17 wrong. And by simply objecting that it  18 assumes facts not in evidence, that is not  19 testimony.  20 BY MR. TEPE:  21 Q. Mr. Johnson, in your e-mail dated  22 October 11th at 3:09 p.m. you say with respect to  23 Ms. Rosen, she's not in the cancellation list,  24 correct?  25 A. Yes.</p>	<p style="text-align: right;">Page 203</p> <p>1 Q. And the cancellation list was Exhibit  2 1 to Alien Invasion II, correct?  3 A. Yes.  4 Q. Her application was provided and  5 published as part of Exhibit 12, correct?  6 A. Yes.  7 Q. At the date that Alien Invasion II was  8 published, did PILF have any basis to believe  9 that her registration had been canceled?  10 A. I think we believed that the inclusion  11 of her application indicated that she was someone  12 who had been canceled previously.  13 Q. But as we saw with the correspondence  14 with Mr. Latham from York County, he sent you  15 copies of notices of intent to cancel, correct?  16 A. Yes.  17 Q. He also sent you copies of  18 affirmations of citizenship, correct?  19 A. Correct.  20 Q. And it's Mr. Latham's correspondence  21 with PILF that was the basis for the records that  22 were included, at least with respect to York  23 County individuals, in Exhibit 12, correct?  24 A. I believe that Mr. Latham -- what I  25 believe Mr. Latham had sent us was a VERIS report</p>
<p style="text-align: right;">Page 204</p> <p>1 of everyone who had been canceled for citizenship  2 reasons and copies of their applications.  3 Q. On November -- November, the e-mail  4 chain, remember there were four e-mails in  5 November?  6 A. Yes.  7 Q. Mr. Latham didn't send any VERIS  8 report, correct?  9 A. No, not on that day.  10 Q. And Ms. Rosen didn't appear on any  11 VERIS report that was sent to PILF, correct?  12 A. Not that I'm aware of.  13 Q. Do you recall how many voter  14 registration applications PILF pulled from  15 Exhibit 12?  16 A. Not -- not the exact number.  17 Q. Does 51 sound right?  18 A. That sounds right.  19 (Exhibit 29 marked for identification  20 and attached hereto.)  21 BY MR. TEPE:  22 Q. The court reporter has handed you  23 what's been marked Exhibit 29 with Bates number  24 17930. Do you see that?  25 A. I see that.</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. This is a long e-mail chain involving  2 complaints that PILF had received from people  3 listed in Alien Invasion II. Is that right?  4 A. Could you repeat that again?  5 Q. I'm saying this is a long e-mail chain  6 involving complaints that PILF -- this is a long  7 e-mail chain involving a discussion about  8 complaints PILF had received from people listed  9 in the Alien Invasion report, correct?  10 A. At least one complaint, Ms. Rosen's.  11 Q. I really just want to ask you one  12 thing. On the first page, Ms. Powell's e-mail  13 November 3, 2017, at 11:36 a.m., do you see that?  14 A. And 48 seconds, yes.  15 Q. She says: "I just talked to Noel and  16 he thinks we should err on the side of caution  17 and pull all 51 voter apps from Exhibit 12. Do  18 you have issue with that?"  19 Do you see that?  20 A. Yes.  21 Q. Do you recall having a conversation  22 with Ms. Powell in which you expressed that  23 opinion?  24 A. Yes, I do.  25 Q. I'm sorry, yes?</p>



<p style="text-align: right;">Page 206</p> <p>1 A. Yes, I do.</p> <p>2 Q. You can put that document aside.</p> <p>3 Now, when PILF pulled those 51 voter</p> <p>4 registration applications, they replaced Exhibit</p> <p>5 12 on the website with a new version, correct?</p> <p>6 Exhibit 12.</p> <p>7 A. Right, a new version that excluded</p> <p>8 those 51 apps.</p> <p>9 (Exhibit 30 marked for identification</p> <p>10 and attached hereto.)</p> <p>11 BY MR. TEPE:</p> <p>12 Q. The court reporter has just marked as</p> <p>13 Exhibit 30 a document.</p> <p>14 Do you recognize this document?</p> <p>15 A. It looks like a printout of a page of</p> <p>16 our website.</p> <p>17 Q. And in particular, this is the page</p> <p>18 that houses the exhibits to Alien Invasion II?</p> <p>19 A. That's right.</p> <p>20 Q. And unfortunately the printout doesn't</p> <p>21 have the date. Sometimes it does. I'll</p> <p>22 represent that this was printed out yesterday.</p> <p>23 A. Okay.</p> <p>24 Q. If you go to the second page, there is</p> <p>25 an asterisk after Exhibit 12.</p>	<p style="text-align: right;">Page 207</p> <p>1 A. Yeah, I see that.</p> <p>2 Q. Voter application is revised, then an</p> <p>3 asterisk?</p> <p>4 A. Yes.</p> <p>5 Q. And then the asterisk below says:</p> <p>6 "Exhibit 12 was updated after the discovery that</p> <p>7 some records were erroneously disclosed by the</p> <p>8 Commonwealth of Virginia which reflected</p> <p>9 individuals incorrectly categorized in the</p> <p>10 official voter registration archives as being</p> <p>11 declared noncitizens. Those records were</p> <p>12 removed."</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. That statement is incorrect, isn't it?</p> <p>16 A. I think it reflected our belief at the</p> <p>17 time. It is -- it might be imprecise.</p> <p>18 Q. It might be?</p> <p>19 A. I believe at the time it was written</p> <p>20 we believed that the applications we had received</p> <p>21 belonged to those whose registrations had been</p> <p>22 canceled under the category declared noncitizen,</p> <p>23 which is why the -- why the language after the</p> <p>24 asterisk says what it says.</p> <p>25 Q. Well, we just looked at an exhibit in</p>
<p style="text-align: right;">Page 208</p> <p>1 which you wrote that Ms. Rosen was not listed in</p> <p>2 the cancellation report, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And that's the only report or record</p> <p>5 that PILF received from the Virginia Department</p> <p>6 of Elections that it used in Alien Invasion II,</p> <p>7 correct?</p> <p>8 A. I'm sorry. Repeat that question.</p> <p>9 Q. The only record that PILF received</p> <p>10 from the Virginia Department of Elections which</p> <p>11 it used in Alien Invasion II was the VERIS</p> <p>12 report, correct?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. And in the exhibit we just looked at</p> <p>15 you stated that Ms. Rosen's name was not in the</p> <p>16 VERIS report that was Exhibit 1 to Alien Invasion</p> <p>17 II, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And also Ms. Focht, now Gearhart, her</p> <p>20 name was not listed there either?</p> <p>21 A. Correct.</p> <p>22 Q. The voter registration applications</p> <p>23 that you received did not come from the Virginia</p> <p>24 Department of Elections, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Those come from the local</p> <p>2 jurisdictions, correct?</p> <p>3 A. Correct.</p> <p>4 Q. So it is not correct that PILF</p> <p>5 received, quote, "some records that were</p> <p>6 erroneously disclosed by the Commonwealth of</p> <p>7 Virginia," close quote?</p> <p>8 MR. LOCKERBY: Object to the form of</p> <p>9 the question.</p> <p>10 THE WITNESS: Insofar as each</p> <p>11 jurisdiction makes up the Commonwealth of</p> <p>12 Virginia, it is correct. It does not say</p> <p>13 the Department of Elections. It is a</p> <p>14 commonwealth, after all.</p> <p>15 BY MR. TEPE:</p> <p>16 Q. So the reader is supposed to</p> <p>17 understand from this sentence that when you say</p> <p>18 Commonwealth of Virginia you meant York County?</p> <p>19 A. No, they would not understand York</p> <p>20 County from this language. But they would</p> <p>21 understand that they were disclosed by someone in</p> <p>22 the commonwealth.</p> <p>23 Q. And you said that these records</p> <p>24 reflected individuals incorrectly categorized in</p> <p>25 the official voter registration archive as being</p>

Page 210	Page 211
<p>1 declared noncitizens. Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. That's not correct either?</p> <p>4 MR. LOCKERBY: Object to the form.</p> <p>5 THE WITNESS: Is that a question?</p> <p>6 BY MR. TEPE:</p> <p>7 Q. Yes.</p> <p>8 A. What is the question?</p> <p>9 Q. Isn't it true that the statement here</p> <p>10 that the exhibits -- the voter registration --</p> <p>11 Strike that.</p> <p>12 Isn't it true that the voter</p> <p>13 registration records that were previously in</p> <p>14 Exhibit 12 were not individuals incorrectly</p> <p>15 characterized by the official voter registration</p> <p>16 archive as being declared noncitizens? Is that</p> <p>17 correct?</p> <p>18 A. Again, it's imprecise. It is -- it</p> <p>19 was -- my understanding now is that the records</p> <p>20 we had received, which included Ms. Rosen and</p> <p>21 Ms. Gearhart's application, were records</p> <p>22 belonging to people whose registrations had been</p> <p>23 canceled for citizenship reasons. It may be</p> <p>24 imprecise to say they were categorized in the</p> <p>25 official voter registration archive as being</p>	<p>1 declared noncitizens, with "declared noncitizens"</p> <p>2 being in quotations.</p> <p>3 Q. Because she wasn't actually on that</p> <p>4 list that --</p> <p>5 MR. LOCKERBY: Object to the form.</p> <p>6 BY MR. TEPE:</p> <p>7 Q. -- that used the term "declared</p> <p>8 noncitizen"?</p> <p>9 MR. LOCKERBY: Reference to that list</p> <p>10 is unclear.</p> <p>11 THE WITNESS: Who is "she"?</p> <p>12 BY MR. TEPE:</p> <p>13 Q. Ms. Rosen.</p> <p>14 A. She was not on the VERIS reports we</p> <p>15 received.</p> <p>16 Q. And I believe none of the other 50</p> <p>17 people whose applications were pulled from</p> <p>18 Exhibit 12, correct?</p> <p>19 A. That's my understanding.</p> <p>20 Q. Do you believe this disclaimer on</p> <p>21 PILF's website should be changed?</p> <p>22 MR. LOCKERBY: Object to the form.</p> <p>23 THE WITNESS: I think it could be more</p> <p>24 precise.</p> <p>25 BY MR. TEPE:</p>
Page 212	Page 213
<p>1 Q. How so?</p> <p>2 A. I think it might say that -- perhaps</p> <p>3 reflect our understanding as what the records we</p> <p>4 received indicated rather than they were</p> <p>5 categorized in the official archive.</p> <p>6 Q. After the complaint in this</p> <p>7 litigation, the litigation that you're sitting</p> <p>8 here today for, after that complaint was filed,</p> <p>9 do you recall Mr. Vanderhulst commenting that he</p> <p>10 was surprised the lawsuit hadn't happened sooner?</p> <p>11 A. I think I recall that, yes.</p> <p>12 Q. A lawsuit or an IRS complaint or</p> <p>13 something?</p> <p>14 MR. LOCKERBY: Object to the form.</p> <p>15 THE WITNESS: The communication sounds</p> <p>16 familiar.</p> <p>17 MR. LOCKERBY: Would this be a good</p> <p>18 time to take a break before we launch into</p> <p>19 other exhibits?</p> <p>20 MR. TEPE: It will be real quick.</p> <p>21 (Exhibit 31 marked for identification</p> <p>22 and attached hereto.)</p> <p>23 BY MR. TEPE:</p> <p>24 Q. The court reporter has just marked as</p> <p>25 Exhibit 31 an e-mail with the Bates 11327.</p>	<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And what do you recognize this to be?</p> <p>4 A. The correspondence from</p> <p>5 Mr. Vanderhulst you were just describing.</p> <p>6 MR. TEPE: You can put that document</p> <p>7 aside and we can take a break.</p> <p>8 THE VIDEOGRAPHER: We are going off</p> <p>9 the record. The time is 2:59 p.m.</p> <p>10 (Recess taken.)</p> <p>11 THE VIDEOGRAPHER: We are back on the</p> <p>12 record. The time is 3:13 p.m.</p> <p>13 BY MR. TEPE:</p> <p>14 Q. Mr. Johnson, do you know who Chris</p> <p>15 Marston is?</p> <p>16 A. I do.</p> <p>17 Q. Who is he?</p> <p>18 A. I believe he is with the Republican</p> <p>19 Party of Virginia.</p> <p>20 Q. Do you recall him helping you appear</p> <p>21 before the Privileges and Elections Committee</p> <p>22 after publication of Alien Invasion I?</p> <p>23 A. I remember some communications with</p> <p>24 him preceding that. I don't recall his -- what</p> <p>25 you refer to as helping. I don't remember it</p>

<p style="text-align: right;">Page 214</p> <p>1 like that. But...</p> <p>2 (Exhibit 32 marked for identification</p> <p>3 and attached hereto.)</p> <p>4 BY MR. TEPE:</p> <p>5 Q. The court reporter has just handed you</p> <p>6 what's been marked as Exhibit 32, a document with</p> <p>7 Bates number 4883. Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. Do you recognize this document?</p> <p>10 A. Yeah, I've seen it before.</p> <p>11 Q. And it's an e-mail chain from October</p> <p>12 of 2016. And it concerns in part testimony that</p> <p>13 you were going to provide to the general</p> <p>14 assembly. Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. But the e-mail begins on October 8th</p> <p>17 with an e-mail from Mr. Marston to Mr. Adams with</p> <p>18 the subject line "jury questionnaires."</p> <p>19 A. I see that.</p> <p>20 Q. And he writes to Christian: "You're</p> <p>21 doing great work on the noncitizens on the voter</p> <p>22 rolls. Keep up the pressure."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. "I'm trying to round up allies. We've</p>	<p style="text-align: right;">Page 215</p> <p>1 got a joint House session committee meeting next</p> <p>2 week on election readiness and the registration</p> <p>3 list. I'm working to be sure we get them briefed</p> <p>4 up on your report and the issue."</p> <p>5 Do you see that?</p> <p>6 A. I see that there.</p> <p>7 Q. And is that referring to the committee</p> <p>8 meeting that you ultimately testified to?</p> <p>9 A. Yes, I think that's what he's</p> <p>10 referring to.</p> <p>11 Q. He also said: "I know you FOIA'd the</p> <p>12 Alexandria clerk for any communications with the</p> <p>13 registrar or EB regarding request for jury duty."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. "Have you ever FOIA'd to actually get</p> <p>17 the disqualification list with the reasons for</p> <p>18 disqualification?"</p> <p>19 Do you see that?</p> <p>20 A. I see that he says that, yes.</p> <p>21 Q. And then he says: "If we did that, we</p> <p>22 could go challenge registrations before the books</p> <p>23 closed."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 216</p> <p>1 Q. "I wondered if you've already done it</p> <p>2 and already checked out the law and likely</p> <p>3 responses."</p> <p>4 A. I see that.</p> <p>5 Q. Do you know what he's talking about</p> <p>6 with respect to a FOIA to the Alexandria clerk?</p> <p>7 A. I believe I do, yes.</p> <p>8 Q. And what do you understand that to be?</p> <p>9 A. At some point in time we sent FOIA</p> <p>10 requests to various jury clerks asking for data</p> <p>11 regarding people who disqualified themselves for</p> <p>12 jury duty.</p> <p>13 Q. What do you mean by disqualified</p> <p>14 themselves for jury duty?</p> <p>15 A. As I understand it, when you are asked</p> <p>16 to appear on a jury you're expected to answer</p> <p>17 certain questions, and depending on how you</p> <p>18 answer them, you may be disqualified from serving</p> <p>19 on a jury. And some of those reasons are --</p> <p>20 would also disqualify you from registering to</p> <p>21 vote.</p> <p>22 Q. Was PILF looking for the</p> <p>23 disqualification list for jury duty?</p> <p>24 A. I believe we asked for records that</p> <p>25 would reflect people who excused themselves from</p>	<p style="text-align: right;">Page 217</p> <p>1 jury duty. I don't know if we specifically asked</p> <p>2 for a list.</p> <p>3 Q. Who would know if you actually asked</p> <p>4 for a list of those disqualified from jury duty?</p> <p>5 A. Well, I think there are records of the</p> <p>6 requests themselves that have been produced to</p> <p>7 you.</p> <p>8 Q. Have you had personally any</p> <p>9 discussions with Chris Marston about jury</p> <p>10 questionnaire data?</p> <p>11 A. Just me and him?</p> <p>12 Q. Yes.</p> <p>13 A. Not that I recall.</p> <p>14 Q. What about with you, him and other</p> <p>15 people involved?</p> <p>16 A. Nothing specific is coming to mind,</p> <p>17 but I can't say that there aren't communications.</p> <p>18 Q. So if I understand your testimony,</p> <p>19 there may be communications involving Chris</p> <p>20 Marston, yourself and others with respect to</p> <p>21 obtaining jury disqualification lists?</p> <p>22 A. There may be. The exhibit you just</p> <p>23 showed me contains a chain in which it's being</p> <p>24 discussed, so whether there are others like this</p> <p>25 I can't say for sure.</p>

<p style="text-align: right;">Page 218</p> <p>1 Q. Again, the first paragraph of 2 Mr. Marston's e-mail to Mr. Adams talks about, 3 I'm assuming, Alien Invasion I. Would you agree 4 with that? 5 A. Based on the timing, I think that's 6 what he's referring to. 7 Q. "Make sure we get them" -- I'm 8 assuming the general assembly folks -- "briefed 9 up on your report." 10 Do you see that? 11 A. Yeah. It sounds like he's referring 12 to the joint House/Senate committee. 13 Q. So he's working to be sure that the 14 joint House/Senate committee members are briefed 15 on your report. Is that report the Alien 16 Invasion I report? 17 A. I think that's what he's referring to, 18 yes. 19 Q. Do you know why Mr. Marston was trying 20 to brief members of the joint House/Senate 21 committee on the Alien Invasion I report? 22 A. I don't. 23 Q. You can put this document aside. 24 Earlier you testified that, generally 25 speaking, you were supervising the effort to</p>	<p style="text-align: right;">Page 219</p> <p>1 produce and publish the Alien Invasion reports, 2 correct? 3 MR. LOCKERBY: Object to the form. 4 MR. TEPE: What's the basis for the 5 objection? 6 MR. LOCKERBY: It's been asked and 7 answered. 8 MR. TEPE: It's just a segue question. 9 MR. LOCKERBY: Well, it's still 10 inappropriate. The transcript reflects what 11 he said. 12 THE WITNESS: I can't say that's my 13 exact testimony. That sounds right. 14 BY MR. TEPE: 15 Q. There was an effort to collect records 16 from individual localities for the first Alien 17 Invasion report, correct? 18 A. Jurisdictions. 19 Q. Jurisdictions? 20 A. Yes. 21 Q. As well as for the second Alien 22 Invasion report, correct? 23 A. Yes. 24 Q. Now, PILF coordinated its efforts to 25 collect these election records from these</p>
<p style="text-align: right;">Page 220</p> <p>1 jurisdictions with the Republican Party of 2 Virginia, correct? 3 MR. LOCKERBY: Object to the form. 4 MR. TEPE: What's the basis for the 5 objection? 6 MR. LOCKERBY: It's vague, including 7 the use of the term "coordinate." 8 THE WITNESS: I would not say we 9 coordinated our collection of records with 10 them. I have some recollection of them 11 having requested similar records. 12 BY MR. TEPE: 13 Q. And their requests for similar records 14 was suggested by Mr. Adams, correct? 15 A. I don't know if that's true or not. 16 (Exhibit 33 marked for identification 17 and attached hereto.) 18 BY MR. TEPE: 19 Q. The court reporter has handed you a 20 document marked as Exhibit 33 with the Bates 21 number 9399. 22 Do you recognize this document? 23 A. I think I've seen it before. 24 Q. It's an e-mail chain that begins with 25 an e-mail from Shawna Powell dated November 16,</p>	<p style="text-align: right;">Page 221</p> <p>1 2016 to you. Is that right? 2 A. Yes. 3 Q. The subject line is "VA Stafford and 4 Roanoke"? 5 A. Correct. 6 Q. Is this referencing the effort to 7 collect records from Stafford and Roanoke 8 Counties for the Alien Invasion II report? 9 A. Yes, I believe so. 10 Q. Ms. Powell writes: "Regarding 11 Stafford, called 11/16 to F/U..." Is that follow 12 up, do you think? 13 A. I hope so. 14 Q. "...on the e-mail sent 11/15. Greg 15 Riddlemoser stated that RPV," Republican Party of 16 Virginia, "came to his office and went through 17 all the records so he considers this matter done. 18 I explained we are not working with RPV; however, 19 he stated that they" -- "said that they were 20 working with them." 21 Do you see that? 22 A. I see that. 23 Q. You forwarded this to Mr. Adams, and 24 you asked: "Any reason RPV would have asked for 25 the same records?"</p>

<p style="text-align: right;">Page 222</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And Mr. Adams wrote back: "Yes. I</p> <p>4 suggested it. I believe swarming is better than</p> <p>5 lone attacks. That's how the left plays."</p> <p>6 Do you see that?</p> <p>7 A. I see that.</p> <p>8 Q. Do you recall having any follow-up</p> <p>9 conversation with Mr. Adams regarding his</p> <p>10 suggestion to the Republican Party of Virginia?</p> <p>11 A. No, I don't recall any further</p> <p>12 communications.</p> <p>13 Q. Is it your understanding that making a</p> <p>14 request of jurisdictions for election records are</p> <p>15 attacks?</p> <p>16 A. No.</p> <p>17 Q. Are you aware of other instances</p> <p>18 besides Stafford in which the Republican Party of</p> <p>19 Virginia was asking for the same records that</p> <p>20 PILF was asking for?</p> <p>21 A. No, I don't recall any. Or have</p> <p>22 knowledge of any.</p> <p>23 Q. You can put that document aside.</p> <p>24 Do you recall Mr. Adams reaching out</p> <p>25 to the Republican Party of Virginia to get</p>	<p style="text-align: right;">Page 223</p> <p>1 addresses of Virginia congressional district</p> <p>2 chairs for the Republican Party to send copies of</p> <p>3 the Alien Invasion II report?</p> <p>4 A. I do not recall that.</p> <p>5 (Exhibit 34 marked for identification</p> <p>6 and attached hereto.)</p> <p>7 BY MR. TEPE:</p> <p>8 Q. The reporter just handed you what's</p> <p>9 been marked as Exhibit 34, a document with the</p> <p>10 Bates number 475358.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recognize this document?</p> <p>14 A. Only vaguely.</p> <p>15 Q. At the bottom Mr. Adams wrote on</p> <p>16 May 26, 2017: "Chris, we want to snail mail a</p> <p>17 copy of the Alien 2.0 report to the Virginia</p> <p>18 congressional district chairs."</p> <p>19 Do you see that?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Was that a yes?</p> <p>22 A. Yes.</p> <p>23 Q. And these are -- do you know what</p> <p>24 Virginia congressional district chairs are?</p> <p>25 A. I believe it's the party chairs in</p>
<p style="text-align: right;">Page 224</p> <p>1 each congressional district.</p> <p>2 Q. And then he responded: "Attached are</p> <p>3 the RPV leadership roster. The district chairs</p> <p>4 are at the top."</p> <p>5 Do you see that?</p> <p>6 A. He attached it.</p> <p>7 Q. And then this is forwarded to you?</p> <p>8 A. Oh, I see. Yes, it was forwarded to</p> <p>9 me and two other people.</p> <p>10 Q. Do you recall the mailing list that we</p> <p>11 looked at earlier that Virginia congressional</p> <p>12 district chairs were included on the mailing</p> <p>13 list?</p> <p>14 A. I do.</p> <p>15 Q. Did you mail Alien Invasion II to</p> <p>16 Democratic Party of Virginia officials?</p> <p>17 A. Are you asking me?</p> <p>18 Q. Did PILF mail, to your knowledge,</p> <p>19 Alien Invasion II to Democratic --</p> <p>20 A. I don't recall whether we did.</p> <p>21 Q. PILF is barred from endorsing a</p> <p>22 political party or candidate. Is that right?</p> <p>23 MR. LOCKERBY: Object to the form.</p> <p>24 THE WITNESS: I think the IRS rules</p> <p>25 prohibit partisan intervention, and that</p>	<p style="text-align: right;">Page 225</p> <p>1 might include endorsement.</p> <p>2 BY MR. TEPE:</p> <p>3 Q. But in your reports you try and tiptoe</p> <p>4 around that, correct?</p> <p>5 MR. LOCKERBY: Object to the form of</p> <p>6 the question.</p> <p>7 THE WITNESS: I'm not sure I</p> <p>8 understand the question.</p> <p>9 (Exhibit 35 marked for identification</p> <p>10 and attached hereto.)</p> <p>11 BY MR. TEPE:</p> <p>12 Q. The court reporter has marked what is</p> <p>13 Exhibit 35, a document with Bates number 51869.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recognize this document?</p> <p>17 A. Yeah, I think I've seen this.</p> <p>18 Q. It appears to be a draft of Alien</p> <p>19 Invasion II, is that right, attached to this</p> <p>20 e-mail?</p> <p>21 A. Yes, it's a draft.</p> <p>22 Q. So you e-mailed Mr. Adams and</p> <p>23 Mr. Churchwell a draft on April 28, 2017. Is</p> <p>24 that right?</p> <p>25 A. Yes.</p>



<p style="text-align: right;">Page 226</p> <p>1 Q. You wrote: "One thing to keep in 2 mind, there is a new section on upcoming 3 elections in Virginia. We can't endorse any 4 candidate or party, so I attempted to tiptoe 5 around it. McAuliffe is not a candidate, as you 6 probably know, so he's fair game." 7 Do you see that? 8 A. I see that. 9 Q. What did you mean by this paragraph? 10 MR. LOCKERBY: Object to the form. 11 THE WITNESS: I believe we wanted to 12 mention the effect that ineligible 13 registration and voting can have on 14 elections. Knowing that we couldn't endorse 15 candidates or parties, it required us to 16 steer clear of that while informing the 17 reader that there were elections on the 18 horizon in Virginia. 19 BY MR. TEPE: 20 Q. Was, to your knowledge, PILF trying to 21 have an impact on the 2017 Virginia elections? 22 MR. LOCKERBY: Object to the form. 23 THE WITNESS: No. 24 BY MR. TEPE: 25 Q. Do you recall in PILF's effort to</p>	<p style="text-align: right;">Page 227</p> <p>1 obtain I believe the VERIS reports, PILF sued the 2 registrars of Chesterfield and Manassas? 3 A. I do recall that, yes. 4 Q. Do you recall if any amici appeared in 5 favor of PILF's position? 6 A. Yes, I do recall. 7 Q. So who was an amici you're recalling? 8 A. I believe a brief was filed by the 9 Republican Party of Virginia, or a more local 10 chapter of it; I'm not sure which one. 11 Q. Did you work on a report called Safe 12 Spaces? 13 A. I did. 14 Q. Just generally, what was the purpose 15 of issuing the Safe Spaces report? 16 A. To educate about the impact of 17 sanctuary policies on voter registration and 18 voting. Sanctuary city policies. 19 Q. And what did PILF believe to be the 20 impact of sanctuary city policies on voter 21 registration? 22 A. We investigated whether sanctuary city 23 policies had an impact on the prevalence of 24 registration by ineligible noncitizens. 25 Q. Well, did you examine the impact or</p>
<p style="text-align: right;">Page 228</p> <p>1 simply report on the number of purported 2 noncitizens registered in sanctuary city 3 locations? 4 MR. LOCKERBY: Object to the form. 5 THE WITNESS: That was part of the 6 report, was the data. 7 BY MR. TEPE: 8 Q. Safe Spaces was published by PILF 9 after this lawsuit was filed. Is that correct? 10 A. I believe that's correct. 11 (Exhibit 36 marked for identification 12 and attached hereto.) 13 BY MR. TEPE: 14 Q. The court reporter has marked what is 15 Exhibit 36, a document with the Bates number 16 beginning 250. 17 Do you see that? 18 A. I see that. 19 Q. Do you recognize this document? 20 A. Yeah, it looks like an e-mail and a 21 draft copy of the Safe Spaces report. 22 Q. And so Mr. Adams e-mailed on August 23 15, 2018, a draft of his edits to the report. Is 24 that correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. That was sent to you and 2 Mr. Churchwell? 3 A. Correct. 4 Q. And just flipping through the report, 5 there are a bunch of comments with CA and then a 6 number in the comment bubble. Do you see that? 7 A. I see those. 8 Q. Does that refer to Christian Adams? 9 A. Yes. 10 Q. Can you flip to the Bates-numbered 11 page 268. 12 A. I'm looking at 268. 13 Q. There is a paragraph second from the 14 top that originally read before edits: "Virginia 15 currently contains three sanctuary jurisdictions, 16 all of which disclosed records of noncitizens 17 previously registered and voting there." 18 Did I read the initial draft correct? 19 A. I think the last word says therein, 20 but yes, that is correct. 21 Q. Therein. 22 Mr. Adams crossed that out and 23 replaced "noncitizens previously registered and 24 voting therein" to "registrants canceled for 25 citizenship defects."</p>

Page 230	Page 231
<p>1 Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. Do you know why he made that edit?</p> <p>4 MR. LOCKERBY: Object to the form.</p> <p>5 Lack of foundation.</p> <p>6 BY MR. TEPE:</p> <p>7 Q. Let's go -- hanging off this edit is a</p> <p>8 comment, comment number 18. Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. And Mr. Adams appears to have written:</p> <p>11 "How is it that after we are involved in</p> <p>12 litigation that we are still referring to these</p> <p>13 Virginia cases as 'noncitizens'? It defies</p> <p>14 explanation. On numerous occasions and in</p> <p>15 numerous places I have explicitly said they are</p> <p>16 registrations removed for citizenship defects or</p> <p>17 registrants canceled for reasons of</p> <p>18 noncitizenship. We have to use the actual terms</p> <p>19 and not make assumptions they are necessarily</p> <p>20 aliens. The continuing improper terminology</p> <p>21 contributed to us losing the motion to dismiss</p> <p>22 because the court ruled that these subsequent</p> <p>23 statements were re-publications with a statute of</p> <p>24 limitations."</p> <p>25 Did I read that comment correctly?</p>	<p>1 A. Yes, you did.</p> <p>2 Q. Would you agree with Mr. Adams that</p> <p>3 calling the individuals listed on the records</p> <p>4 that you published in Alien Invasion II as</p> <p>5 noncitizens was improper terminology?</p> <p>6 MR. LOCKERBY: Object to the form.</p> <p>7 THE WITNESS: Well, at the time</p> <p>8 Mr. Adams wrote this comment, as you have</p> <p>9 mentioned, this lawsuit had begun in which</p> <p>10 it was in dispute -- or the terminology used</p> <p>11 was part of the basis for the complaint. I</p> <p>12 think that is what Mr. Adams is concerned</p> <p>13 about here. His comment otherwise speaks</p> <p>14 for itself.</p> <p>15 BY MR. TEPE:</p> <p>16 Q. The numbers that are listed here for</p> <p>17 Fairfax County, Chesterfield County, Arlington</p> <p>18 County, do these come from VERIS reports?</p> <p>19 A. Yes, they do.</p> <p>20 Q. Were they updated reports that you</p> <p>21 received from jurisdictions?</p> <p>22 A. I believe they were, yes.</p> <p>23 Q. And in the final publication of Safe</p> <p>24 Spaces, PILF doesn't call the individuals</p> <p>25 identified on the VERIS reports noncitizens,</p>
Page 232	Page 233
<p>1 correct?</p> <p>2 A. I don't believe so.</p> <p>3 Q. You can put that document aside.</p> <p>4 (Exhibit 37 marked for identification</p> <p>5 and attached hereto.)</p> <p>6 BY MR. TEPE:</p> <p>7 Q. The court reporter has just marked and</p> <p>8 handed you what is Exhibit 37 with Bates number</p> <p>9 3971.</p> <p>10 Do you see that?</p> <p>11 A. I do see that.</p> <p>12 Q. What do you recognize this document to</p> <p>13 be?</p> <p>14 A. It looks like an e-mail attaching a</p> <p>15 copy of my written testimony before the</p> <p>16 Privileges and Elections Committee of the</p> <p>17 Virginia general assembly.</p> <p>18 Q. Why did you testify before this</p> <p>19 committee?</p> <p>20 A. I believe Mr. Adams was unavailable</p> <p>21 and asked me to go.</p> <p>22 Q. Why did anyone from PILF testify</p> <p>23 before this committee?</p> <p>24 A. I believe we were invited to it.</p> <p>25 Q. And do you know why PILF was invited</p>	<p>1 to it?</p> <p>2 A. I think our research was germane to</p> <p>3 the purpose of the hearing.</p> <p>4 Q. Do you recall questions arising during</p> <p>5 the hearing from members of the committee</p> <p>6 questioning the assertions in Alien Invasion I?</p> <p>7 A. I recall some comments in that regard,</p> <p>8 yes.</p> <p>9 Q. And do you recall these committee</p> <p>10 members stating that certain individuals listed</p> <p>11 in Alien Invasion I were not noncitizens?</p> <p>12 A. I'm not sure if that's an accurate</p> <p>13 recitation of what was stated, but I remember</p> <p>14 something along those lines.</p> <p>15 Q. Well, what do you recall?</p> <p>16 A. I recall a committeewoman I believe</p> <p>17 claiming that she knew of certain individuals</p> <p>18 listed in the report that were not removed for</p> <p>19 citizenship reasons.</p> <p>20 Q. Did you follow up with this</p> <p>21 committeewoman?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Why not?</p> <p>24 A. I don't recall.</p> <p>25 Q. Is it fair to say that she was</p>

<p style="text-align: right;">Page 234</p> <p>1 suggesting that there was some inaccuracy in 2 Alien Invasion I?</p> <p>3 A. I think more directly she was 4 asserting that there was some inaccuracy in the 5 VERIS report attached to the report.</p> <p>6 Q. That you relied on in Alien Invasion 7 I, correct?</p> <p>8 A. Correct.</p> <p>9 Q. But you don't recall PILF following up 10 with the committeewoman regarding her concerns?</p> <p>11 A. No, I don't recall that.</p> <p>12 Q. Is there anything else that you recall 13 from that committee hearing?</p> <p>14 A. Yes.</p> <p>15 Q. What do you recall?</p> <p>16 A. I recall that Reagan George gave 17 testimony. I recall that Edgardo Cortes gave 18 testimony. Various general registrars in the 19 commonwealth gave testimony. I recall there were 20 other members of the public that gave testimony.</p> <p>21 Q. Do you recall if Mr. George had any 22 prepared testimony?</p> <p>23 A. Yes, he did.</p> <p>24 Q. Do you have a copy of that testimony?</p> <p>25 A. Yes, I think he provided us with one.</p>	<p style="text-align: right;">Page 235</p> <p>1 Q. Do you know if PILF still has a copy 2 of that?</p> <p>3 A. I believe that we do.</p> <p>4 MR. TEPE: Counsel, I don't believe 5 we've received that.</p> <p>6 MR. LOCKERBY: Pardon me?</p> <p>7 MR. TEPE: I don't believe we have 8 received this testimony of Mr. George that 9 Mr. Johnson suggested may be in PILF's 10 possession.</p> <p>11 MR. LOCKERBY: I don't know whether 12 we've produced it or whether in fact PILF 13 has it or whether it's responsive, but we 14 can look.</p> <p>15 MR. TEPE: I'm just noting it for the 16 follow-up.</p> <p>17 BY MR. TEPE:</p> <p>18 Q. Do you recall the content of 19 Mr. George's testimony by chance?</p> <p>20 A. No, I don't remember the specifics.</p> <p>21 Q. Do you recall the content of any of 22 the registrars' testimony?</p> <p>23 A. Yes.</p> <p>24 Q. What do you recall?</p> <p>25 A. I recall that Larry Haake testified</p>
<p style="text-align: right;">Page 236</p> <p>1 and that he, I believe, addressed sort of the 2 subject matter of the Alien Invasion report 3 insofar as the registration of noncitizens.</p> <p>4 Q. Do you recall anything else 5 specifically?</p> <p>6 A. No.</p> <p>7 MR. TEPE: Do you want to go off the 8 record for five minutes?</p> <p>9 MR. LOCKERBY: Sure, absolutely.</p> <p>10 THE VIDEOGRAPHER: We are going off 11 the record. The time is 3:54 p.m. 12 (Recess taken.)</p> <p>13 THE VIDEOGRAPHER: We are back on the 14 record. The time is 4:00 p.m.</p> <p>15 BY MR. TEPE:</p> <p>16 Q. Mr. Johnson, before the Virginia 17 Department of Elections sent PILF statewide VERIS 18 reports, the Virginia Department of Elections 19 sent you a different report generated from VERIS. 20 Is that correct?</p> <p>21 A. They sent us a different report. They 22 did not tell us how it was generated, so I cannot 23 say it was generated from VERIS.</p> <p>24 Q. And sometimes that's referred to as 25 the custom report?</p>	<p style="text-align: right;">Page 237</p> <p>1 A. Yes, that's how Mr. Cortes referred to 2 it.</p> <p>3 (Exhibit 38 marked for identification 4 and attached hereto.)</p> <p>5 BY MR. TEPE:</p> <p>6 Q. The court reporter has just handed 7 over what's been marked as Exhibit 38, a document 8 beginning Bates number 16737.</p> <p>9 Do you recognize this document?</p> <p>10 A. This looks like the e-mail from 11 Mr. Cortes transmitting the so-called custom 12 report along with a copy of that report.</p> <p>13 Q. And so on September 30, 2016, 14 Mr. Cortes e-mails you and Ms. Powell, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And he begins his e-mail by stating: 17 "On September 16, 2016, the Department of 18 Elections offered to create a customized report 19 containing information available in our statewide 20 voter registration system related to 21 correspondence sent to potential noncitizens by 22 local general registrars." 23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. The statewide voter registration</p>

<p style="text-align: right;">Page 238</p> <p>1 system, that's VERIS, correct?</p> <p>2 A. That's how I understand it.</p> <p>3 Q. And then below he lists the fields</p> <p>4 that are included in the attached report,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And a number of these fields are the</p> <p>8 same fields that appear in what we've been</p> <p>9 calling the VERIS report before, correct?</p> <p>10 A. Some of the information is the same,</p> <p>11 yes.</p> <p>12 Q. Right. And that's the cancellation</p> <p>13 report that's been published in the Alien</p> <p>14 Invasion reports, correct?</p> <p>15 A. The VERIS report is, yes.</p> <p>16 Q. Right. And so both the VERIS report</p> <p>17 and this custom report contains a registrant's</p> <p>18 last name, right?</p> <p>19 A. Yes.</p> <p>20 Q. First name?</p> <p>21 A. Yes.</p> <p>22 Q. Voter registration ID?</p> <p>23 A. If you mean voter ID number.</p> <p>24 Q. Yes.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 239</p> <p>1 Q. Registration address?</p> <p>2 A. Yes.</p> <p>3 Q. One difference is that the custom</p> <p>4 report has a field for current registration</p> <p>5 status?</p> <p>6 A. Yes.</p> <p>7 Q. But the VERIS reports that were</p> <p>8 published in the Alien Invasion reports don't</p> <p>9 have that field, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And then two other fields listed here</p> <p>12 are the date noncitizen correspondence was sent</p> <p>13 and the date that they had for a response being</p> <p>14 received, if at all?</p> <p>15 A. Yes.</p> <p>16 Q. Now, your first reaction to receiving</p> <p>17 this report was that it was incredibly helpful --</p> <p>18 excuse me, incredibly useful. Is that right?</p> <p>19 A. I don't recall what my immediate</p> <p>20 reaction was.</p> <p>21 (Exhibit 39 marked for identification</p> <p>22 and attached hereto.)</p> <p>23 BY MR. TEPE:</p> <p>24 Q. The court reporter has marked as</p> <p>25 Exhibit 39 a document with the Bates number 5276.</p>
<p style="text-align: right;">Page 240</p> <p>1 Do you see that?</p> <p>2 A. I see it.</p> <p>3 Q. Do you recognize this document?</p> <p>4 A. Yes, I've seen this before.</p> <p>5 Q. And so this is an e-mail from you</p> <p>6 forwarding the September 30 e-mail and custom</p> <p>7 report sent by Mr. Cortes?</p> <p>8 A. Correct.</p> <p>9 Q. And you sent this to Mr. Adams?</p> <p>10 A. Yes.</p> <p>11 Q. And you wrote: "The data, however,</p> <p>12 looks incredibly useful."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. "If I'm reading this correctly, I</p> <p>16 don't see how this is any different than the</p> <p>17 lists we asked for originally."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And the lists you had asked for</p> <p>21 originally was the VERIS report --</p> <p>22 A. Yes.</p> <p>23 Q. -- that was published in Alien</p> <p>24 Invasion I and Alien Invasion II?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. "Some registrations" -- the e-mail of</p> <p>2 yours continues: "Some registrations indicated</p> <p>3 the voters active but most note as canceled."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Did PILF end up accepting this report</p> <p>7 from Mr. Cortes as being sufficient to satisfy</p> <p>8 your requests?</p> <p>9 A. No, we did not.</p> <p>10 Q. Here you say that the data looks</p> <p>11 incredibly useful. Did you change your mind?</p> <p>12 A. I don't recall if I changed my mind.</p> <p>13 Q. Fair enough.</p> <p>14 You wrote here: "I don't see how this</p> <p>15 is any different than the lists we asked for</p> <p>16 originally."</p> <p>17 Did you change your mind as to that</p> <p>18 statement?</p> <p>19 A. I did.</p> <p>20 Q. Now, do you recall PILF rejecting</p> <p>21 Mr. Cortes' custom report as being insufficient</p> <p>22 to satisfy your requests?</p> <p>23 A. I believe we informed him that it did</p> <p>24 not satisfy our request for the VERIS report.</p> <p>25 (Exhibit 40 marked for identification</p>

<p style="text-align: right;">Page 242</p> <p>1 and attached hereto.)</p> <p>2 BY MR. TEPE:</p> <p>3 Q. The court reporter has handed you a</p> <p>4 document marked as Exhibit 40, Bates number 5129.</p> <p>5 Do you see that?</p> <p>6 A. Sorry, 5129?</p> <p>7 Q. Correct.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And do you recognize this</p> <p>10 document?</p> <p>11 A. Yes, I've seen this before.</p> <p>12 Q. This is a response from you to</p> <p>13 Mr. Cortes' September 30 e-mail with the custom</p> <p>14 report, correct?</p> <p>15 A. Yes, it's a response to his e-mail.</p> <p>16 Q. So Mr. Cortes e-mailed you at</p> <p>17 4:27 p.m.</p> <p>18 A. Yes.</p> <p>19 Q. You sent -- in the previous exhibit</p> <p>20 you forwarded that report at 4:42 p.m. on the</p> <p>21 same day.</p> <p>22 A. Correct.</p> <p>23 Q. And then at 6:09 p.m. you responded to</p> <p>24 Mr. Cortes, correct?</p> <p>25 A. 6:09, yes.</p>	<p style="text-align: right;">Page 243</p> <p>1 Q. And you wrote: "Mr. Cortes, we are in</p> <p>2 receipt of your report. This report, however,</p> <p>3 does not satisfy our requests to the county</p> <p>4 registrars. We requested lists of registrants</p> <p>5 who were removed from the voter rolls because</p> <p>6 they were determined to be noncitizens. Your</p> <p>7 report indicates only that the listed individuals</p> <p>8 were mailed citizenship confirmation notices. It</p> <p>9 does not indicate that they were removed for</p> <p>10 citizenship reasons."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Now, in the second sentence where you</p> <p>14 said "We requested lists of registrants who were</p> <p>15 removed from the voter rolls because they were</p> <p>16 determined to be noncitizens," that's not exactly</p> <p>17 what your original request to the jurisdictions</p> <p>18 was, right?</p> <p>19 MR. LOCKERBY: Object to the form.</p> <p>20 THE WITNESS: Well, I think that that</p> <p>21 would -- by this point in time he was aware</p> <p>22 that that's what we were requesting.</p> <p>23 BY MR. TEPE:</p> <p>24 Q. What makes you say that?</p> <p>25 A. I believe at this time he had</p>
<p style="text-align: right;">Page 244</p> <p>1 instructed county registrars not to provide us</p> <p>2 with the VERIS reports because he knew that's</p> <p>3 what we wanted.</p> <p>4 Q. The VERIS reports?</p> <p>5 A. Right.</p> <p>6 Q. The VERIS reports that do not have a</p> <p>7 determination as to whether or not someone is a</p> <p>8 citizen, correct?</p> <p>9 MR. LOCKERBY: Object to the form.</p> <p>10 THE WITNESS: Well, I wouldn't agree</p> <p>11 with that, and we've been over the fact they</p> <p>12 say declared noncitizen on them. But we</p> <p>13 don't have to go through that again.</p> <p>14 BY MR. TEPE:</p> <p>15 Q. That is the phrase used in the column</p> <p>16 called "Cancel Type," right?</p> <p>17 A. Correct.</p> <p>18 Q. But essentially what PILF wanted was</p> <p>19 that particular VERIS report, right?</p> <p>20 A. We wanted the statewide VERIS report.</p> <p>21 Q. Right. That had the column with the</p> <p>22 cancel type that said declared noncitizen?</p> <p>23 A. Correct.</p> <p>24 Q. That's what PILF wanted?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 245</p> <p>1 Q. You can put that document aside.</p> <p>2 A. Both of them?</p> <p>3 Q. Yes.</p> <p>4 MR. TEPE: The witness has been handed</p> <p>5 a document that's been previously marked as</p> <p>6 VVA Deposition Exhibit 39.</p> <p>7 BY MR. TEPE:</p> <p>8 Q. Do you recognize this document?</p> <p>9 A. I have seen it before.</p> <p>10 Q. It's got the Bates number of 1408.</p> <p>11 This document begins with an e-mail from</p> <p>12 Mr. Cortes, March 28, 2017.</p> <p>13 A. Correct.</p> <p>14 Q. Attaching a statewide VERIS report as</p> <p>15 PILF requested. Is that right?</p> <p>16 A. Correct.</p> <p>17 Q. And then you responded thanking him</p> <p>18 for the report and noting that there appears to</p> <p>19 be 15 jurisdictions missing. Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. And then Mr. Cortes on April 4th</p> <p>22 responds to your question about the missing</p> <p>23 jurisdictions. Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And then you forward -- you forward</p>



<p style="text-align: right;">Page 246</p> <p>1 Mr. Cortes' response on April 4th to Mr. Adams,</p> <p>2 copying Mr. Churchwell, right?</p> <p>3 A. Correct.</p> <p>4 Q. And you wrote: "Response from</p> <p>5 Mr. Cortes" -- Strike that.</p> <p>6 "Response from Cortes on the missing</p> <p>7 reports. Those counties have not canceled a</p> <p>8 single person for citizenship reasons in six-plus</p> <p>9 years. Otherwise he just confirms what we</p> <p>10 already knew. The report includes only people</p> <p>11 who were flagged, then sent an affirmation and</p> <p>12 did not return."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. And this is with reference to the</p> <p>16 VERIS report, or one of the VERIS reports that</p> <p>17 was published in Alien Invasion II, right?</p> <p>18 A. Yes.</p> <p>19 MR. TEPE: You can put that document</p> <p>20 aside.</p> <p>21 Subject to any questions that your</p> <p>22 counsel has, I'm done.</p> <p>23 MR. LOCKERBY: All right. I will have</p> <p>24 a few. Just a few.</p> <p>25 //</p>	<p style="text-align: right;">Page 247</p> <p>1 EXAMINATION</p> <p>2 BY MR. LOCKERBY:</p> <p>3 Q. Mr. Johnson, I would like you to look</p> <p>4 back, please, at what was marked as Exhibit 4 to</p> <p>5 your deposition.</p> <p>6 A. I have Exhibit 4 in front of me.</p> <p>7 Q. On the very first page you write:</p> <p>8 "Response from Bedford County, 35 people removed</p> <p>9 for being noncitizens. Interestingly, they also</p> <p>10 provide copies of notices sent to all individuals</p> <p>11 who indicated to the DMV that they were</p> <p>12 noncitizens. Each person was sent a notice</p> <p>13 asking them to confirm their citizenship. That</p> <p>14 list contains 54 people.</p> <p>15 "So 19 people indicated they were</p> <p>16 citizens in response to the notice after</p> <p>17 indicating they were noncitizens at the DMV.</p> <p>18 Those people were kept on the rolls. Hard to</p> <p>19 believe all 19 people simply made a mistake at</p> <p>20 the DMV."</p> <p>21 First of all, is it sometimes the case</p> <p>22 that individuals become naturalized citizens at</p> <p>23 some point after initially registering to vote?</p> <p>24 MR. TEPE: Objection to form.</p> <p>25 Leading.</p>
<p style="text-align: right;">Page 248</p> <p>1 THE WITNESS: Yes, that happens.</p> <p>2 BY MR. LOCKERBY:</p> <p>3 Q. And if someone subsequently affirms</p> <p>4 citizenship after being sent a notice of</p> <p>5 cancellation, is that still an honor system in</p> <p>6 Virginia as you understand it? In other words,</p> <p>7 the registrar takes the voter's word for it?</p> <p>8 MR. TEPE: Objection to form.</p> <p>9 Leading.</p> <p>10 THE WITNESS: That's how I understand</p> <p>11 it.</p> <p>12 BY MR. LOCKERBY:</p> <p>13 Q. And does the subsequent affirmation of</p> <p>14 citizenship change the fact that the person</p> <p>15 previously stated under oath that he or she was</p> <p>16 not a citizen?</p> <p>17 MR. TEPE: Objection; leading.</p> <p>18 THE WITNESS: No, it does not change</p> <p>19 that.</p> <p>20 BY MR. LOCKERBY:</p> <p>21 Q. As you understand the process, does</p> <p>22 the fact that someone reregistered after</p> <p>23 affirming citizenship represent any kind of</p> <p>24 adjudication by the Department of Elections that</p> <p>25 the individual is in fact a citizen of the United</p>	<p style="text-align: right;">Page 249</p> <p>1 States?</p> <p>2 MR. TEPE: Objection; leading.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. LOCKERBY:</p> <p>5 Q. As far as you know, does the fact that</p> <p>6 someone reregisters after completing an</p> <p>7 affirmation of citizenship constitute an</p> <p>8 adjudication by a local registrar that any</p> <p>9 particular voter is in fact a citizen of the</p> <p>10 United States?</p> <p>11 MR. TEPE: Objection; leading.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. LOCKERBY:</p> <p>14 Q. Is it your understanding that federal</p> <p>15 or state prosecutors would have access to</p> <p>16 information about voter registrations and voting</p> <p>17 history that PILF does not?</p> <p>18 MR. TEPE: Objection; leading. Lacks</p> <p>19 foundation.</p> <p>20 THE WITNESS: Can you repeat the</p> <p>21 question?</p> <p>22 BY MR. LOCKERBY:</p> <p>23 Q. Let me ask you a different question.</p> <p>24 Have you ever heard of the SAVE</p> <p>25 program database that is maintained by the</p>

<p style="text-align: right;">Page 250</p> <p>1 Department of Homeland Security?</p> <p>2 A. Yes.</p> <p>3 Q. Does PILF have access to the contents</p> <p>4 of that database?</p> <p>5 A. No.</p> <p>6 Q. Is it your understanding that someone</p> <p>7 who is not a United States citizen but falls in</p> <p>8 one of several categories can obtain a driver's</p> <p>9 license in the Commonwealth of Virginia?</p> <p>10 MR. TEPE: Objection; form.</p> <p>11 THE WITNESS: Yes, that's my</p> <p>12 understanding.</p> <p>13 BY MR. LOCKERBY:</p> <p>14 Q. And is it also your understanding that</p> <p>15 a noncitizen who does so will sometimes</p> <p>16 prevent -- present certain types of</p> <p>17 documentation, for example what's currently</p> <p>18 referred to or commonly referred to as a green</p> <p>19 card?</p> <p>20 MR. TEPE: Objection to form.</p> <p>21 THE WITNESS: Yes, that's my</p> <p>22 understanding.</p> <p>23 BY MR. LOCKERBY:</p> <p>24 Q. Does PILF have access to documentation</p> <p>25 used by noncitizens to obtain driver's licenses</p>	<p style="text-align: right;">Page 251</p> <p>1 in the Commonwealth of Virginia?</p> <p>2 MR. TEPE: Objection to form.</p> <p>3 THE WITNESS: No, we don't.</p> <p>4 BY MR. LOCKERBY:</p> <p>5 Q. Do you know whether federal or state</p> <p>6 prosecutors would have access to that?</p> <p>7 MR. TEPE: Objection to form.</p> <p>8 THE WITNESS: My guess is that they</p> <p>9 would.</p> <p>10 BY MR. LOCKERBY:</p> <p>11 Q. I would like you to look, please, at</p> <p>12 what was previously marked as Exhibit 7.</p> <p>13 A. You might have to give me your copy if</p> <p>14 that's possible because I'm not sure where it</p> <p>15 ended up. What is Exhibit 7?</p> <p>16 Q. I'll just give you a copy of it.</p> <p>17 MR. TEPE: You didn't mark it up, did</p> <p>18 you?</p> <p>19 MR. LOCKERBY: I wrote "Exhibit 7" on</p> <p>20 it, and the answers to my questions.</p> <p>21 MR. TEPE: Thank you.</p> <p>22 BY MR. LOCKERBY:</p> <p>23 Q. What is the date on Exhibit 7?</p> <p>24 A. September 29 of 2016.</p> <p>25 Q. And did Exhibit 7 contain a draft of</p>
<p style="text-align: right;">Page 252</p> <p>1 what eventually became the Alien Invasion I</p> <p>2 report?</p> <p>3 A. Yes, it does.</p> <p>4 Q. And from memory, you don't recall how</p> <p>5 long before the date of Exhibit 7 you began</p> <p>6 drafting what became the Alien Invasion I report,</p> <p>7 do you?</p> <p>8 MR. TEPE: Objection to form.</p> <p>9 Misstates his testimony.</p> <p>10 THE WITNESS: I do not recall how long</p> <p>11 before this exhibit, or before September</p> <p>12 29th, I started drafting what became Alien</p> <p>13 Invasion I.</p> <p>14 MR. LOCKERBY: I would like to have</p> <p>15 this marked as Exhibit 42, I believe.</p> <p>16 THE REPORTER: 41.</p> <p>17 MR. LOCKERBY: Just for the record,</p> <p>18 what is Exhibit 41? Because I had marked an</p> <p>19 April 4, 2017, document by hand as Exhibit</p> <p>20 41. I want to make sure.</p> <p>21 MR. TEPE: That one already has the</p> <p>22 VVA 39.</p> <p>23 MR. LOCKERBY: So we just used the</p> <p>24 same number as before?</p> <p>25 MR. TEPE: Yeah.</p>	<p style="text-align: right;">Page 253</p> <p>1 MR. LOCKERBY: Got it. So this will</p> <p>2 be 41.</p> <p>3 (Exhibit 41 marked for identification</p> <p>4 and attached hereto.)</p> <p>5 BY MR. LOCKERBY:</p> <p>6 Q. Is the first page of Exhibit 41 an</p> <p>7 e-mail that you sent on August 22, 2016?</p> <p>8 A. Yes.</p> <p>9 Q. And then there is an attachment. And</p> <p>10 what is the attachment?</p> <p>11 A. According to the e-mail, it's an info</p> <p>12 sheet on our correspondence with various Virginia</p> <p>13 counties regarding our efforts to get lists of</p> <p>14 noncitizens on the voter rolls.</p> <p>15 Q. Did you use this information sheet in</p> <p>16 any way to develop what later became Alien</p> <p>17 Invasion I?</p> <p>18 MR. TEPE: Objection to form.</p> <p>19 THE WITNESS: I believe some of the</p> <p>20 material was used in the report.</p> <p>21 BY MR. LOCKERBY:</p> <p>22 Q. I would like you to look now, please,</p> <p>23 at what was previously marked as Exhibit 10 to</p> <p>24 your deposition. If it helps, it's the Alien</p> <p>25 Invasion I report dated September 30, 2016.</p>

<p style="text-align: right;">Page 254</p> <p>1 A. I still can't find it.</p> <p>2 Q. All right. If you can't find it, we</p> <p>3 may need to take a break so you can find it.</p> <p>4 Is that it upside-down, perhaps?</p> <p>5 A. There we go, thank you. Okay, I'm</p> <p>6 looking at Exhibit 10.</p> <p>7 Q. And within Exhibit 10 there is an</p> <p>8 Exhibit 7 to the report, and I want you to look,</p> <p>9 please, at page 48 of 84 within Exhibit 7.</p> <p>10 A. Okay, I'm looking at that page.</p> <p>11 Q. And that is a voter registration for</p> <p>12 Luciania Freeman. Is that right?</p> <p>13 A. That is right.</p> <p>14 Q. And on this particular voter</p> <p>15 registration she's checked the box "Yes" in</p> <p>16 response to the question "Are you a citizen of</p> <p>17 the United States?"</p> <p>18 A. Yes, she has.</p> <p>19 Q. And underneath her signature there is</p> <p>20 a date that says September 26, 2008, correct?</p> <p>21 A. I see that.</p> <p>22 Q. And then if you look down at the</p> <p>23 bottom of the page, what does that say? There is</p> <p>24 some handwriting that is stamped there.</p> <p>25 A. It says, "Canceled - declared</p>	<p style="text-align: right;">Page 255</p> <p>1 noncitizen August 12, 2015."</p> <p>2 Q. And was that notation on this document</p> <p>3 when you received it from Prince William County?</p> <p>4 A. I believe it was, yes.</p> <p>5 Q. I would like you to look, please, now</p> <p>6 at Alien Invasion II, which is the mother of all</p> <p>7 deposition exhibits.</p> <p>8 A. Okay. It's Exhibit 11?</p> <p>9 Q. Exhibit 11, yes. Thank you.</p> <p>10 A. Okay, I have that in front of me.</p> <p>11 Q. There is a page of this document that</p> <p>12 has a tab on it, or at least it did on mine, that</p> <p>13 is a report that says up top "Commonwealth of</p> <p>14 Virginia Department of Elections Cancellation -</p> <p>15 Declared Noncitizen, 059 Fairfax County." Can</p> <p>16 you find that?</p> <p>17 A. Is that page 99 of 486?</p> <p>18 Q. The one I'm looking at actually is</p> <p>19 page 100 of 486.</p> <p>20 A. I'm looking at page 100.</p> <p>21 Q. And do you see Eliud Bonilla's name on</p> <p>22 that?</p> <p>23 A. I do. It's at the bottom.</p> <p>24 Q. And under the cancel type, what does</p> <p>25 it say there?</p>
<p style="text-align: right;">Page 256</p> <p>1 A. It says declared noncitizen.</p> <p>2 Q. And the date of this report is</p> <p>3 March 20, 2017. That's what it says in the upper</p> <p>4 right-hand corner. Is that right?</p> <p>5 A. That's right.</p> <p>6 MR. TEPE: Objection to form.</p> <p>7 MR. LOCKERBY: And what's the basis</p> <p>8 for the objection?</p> <p>9 MR. TEPE: You said the date of the</p> <p>10 report. The date of the report is actually</p> <p>11 at the bottom.</p> <p>12 BY MR. LOCKERBY:</p> <p>13 Q. If you look at -- in the upper</p> <p>14 right-hand corner, it says start date 1/1/2011.</p> <p>15 Is that right?</p> <p>16 A. Yes.</p> <p>17 Q. And do you see an end date that says</p> <p>18 3/2/2017?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And then at the bottom it says</p> <p>21 generated on 3/23/2017. Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. Now, before PILF published Alien</p> <p>24 Invasion II, did you inquire of Commissioner</p> <p>25 Cortes of what the significance was of someone</p>	<p style="text-align: right;">Page 257</p> <p>1 being listed on this report that says</p> <p>2 "cancellation - declared noncitizen"?</p> <p>3 MR. TEPE: Objection to form. Vague.</p> <p>4 THE WITNESS: I believe he volunteered</p> <p>5 that information in an e-mail.</p> <p>6 BY MR. LOCKERBY:</p> <p>7 Q. Do you recall receiving an e-mail from</p> <p>8 Commissioner Cortes on that subject?</p> <p>9 MR. TEPE: Objection to form. Vague.</p> <p>10 THE WITNESS: Yes, I do.</p> <p>11 BY MR. LOCKERBY:</p> <p>12 Q. I'm going to show you a document that</p> <p>13 has been filed in the Eastern District of</p> <p>14 Virginia in this case as Docket Number 66-2.</p> <p>15 It's one page.</p> <p>16 MR. LOCKERBY: If you would like, we</p> <p>17 can take a break and I can get it right now.</p> <p>18 It's Exhibit B to PILF's answer, but I don't</p> <p>19 have a hard copy.</p> <p>20 MR. TEPE: What is it?</p> <p>21 MR. LOCKERBY: It's an e-mail from</p> <p>22 Edgardo Cortes to Noel Johnson and Shawna</p> <p>23 Powell dated April 4, 2017.</p> <p>24 MR. TEPE: Is it what's already here?</p> <p>25 MR. LOCKERBY: No. It's a different</p>

<p style="text-align: right;">Page 258</p> <p>1 e-mail that same date.</p> <p>2 MR. TEPE: Yeah, if we can get a copy.</p> <p>3 MR. LOCKERBY: Why don't we all e-mail</p> <p>4 it to Andrew and we can take a short break</p> <p>5 and get a copy.</p> <p>6 MR. TEPE: Appreciate that.</p> <p>7 THE VIDEOGRAPHER: We are going off</p> <p>8 the record. The time is 4:33 p.m.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: We are back on the</p> <p>11 record. The time is 4:33 p.m.</p> <p>12 BY MR. LOCKERBY:</p> <p>13 Q. VVA Exhibit 39, the April 4, 2017,</p> <p>14 10:04 a.m. e-mail from Mr. Cortes in the third</p> <p>15 sentence it says: "This report shows individuals</p> <p>16 that were canceled due to self-reported as</p> <p>17 noncitizen status and failed to complete an</p> <p>18 affirmation of citizenship in the allotted time</p> <p>19 frame and continued to be in canceled status. If</p> <p>20 an individual was previously canceled and then</p> <p>21 subsequently affirmed citizenship and was</p> <p>22 reregistered, they would no longer appear on this</p> <p>23 report because they would now be on active</p> <p>24 status."</p> <p>25 What was your understanding of that</p>	<p style="text-align: right;">Page 259</p> <p>1 communication from Mr. Cortes?</p> <p>2 MR. TEPE: Objection. Calls for a</p> <p>3 narrative. Vague.</p> <p>4 THE WITNESS: My understanding was</p> <p>5 that the statewide VERIS report that he sent</p> <p>6 us, if an individual appeared on that</p> <p>7 report, they were on that report due to</p> <p>8 their self-reported noncitizen status and</p> <p>9 failed to complete an affirmation of</p> <p>10 citizenship in the allotted time frame, and</p> <p>11 that anyone listed on that report continued</p> <p>12 to be in canceled status.</p> <p>13 BY MR. LOCKERBY:</p> <p>14 Q. So based on that e-mail, what, if</p> <p>15 anything, did you conclude with respect to Eliud</p> <p>16 Bonilla who is identified on page 100 of 486 of</p> <p>17 Exhibit 7 to the Alien Invasion report?</p> <p>18 MR. TEPE: Objection to form.</p> <p>19 Foundation.</p> <p>20 THE WITNESS: He was -- by his</p> <p>21 inclusion in this list, he was subject to</p> <p>22 that explanation that Mr. Cortes gave,</p> <p>23 namely that he had self-reported his</p> <p>24 noncitizen status, failed to complete an</p> <p>25 affirmation of citizenship in the allotted</p>
<p style="text-align: right;">Page 260</p> <p>1 time frame, and continued to be in canceled</p> <p>2 status.</p> <p>3 BY MR. LOCKERBY:</p> <p>4 Q. Elsewhere within the VERIS report</p> <p>5 that's part of Exhibit 11 to your deposition</p> <p>6 there should be a tab that has Luciana Freeman's</p> <p>7 name on it. I believe it's on page 258 of 486.</p> <p>8 A. Is that the very last tab?</p> <p>9 Q. I don't think that it is.</p> <p>10 A. You said the application of Luciana</p> <p>11 Freeman?</p> <p>12 Q. No, it's not an application of</p> <p>13 Luciana Freeman. It is part of the VERIS</p> <p>14 report.</p> <p>15 A. Sorry. Page 258?</p> <p>16 Q. Page 258 of 486. Are you with me?</p> <p>17 A. I'm looking at 258. Yes.</p> <p>18 Q. Based on Mr. Cortes' e-mail to you on</p> <p>19 Tuesday, April 4, 2017, what, if anything, did</p> <p>20 you conclude about the fact that Luciana Freeman</p> <p>21 was listed on that particular page?</p> <p>22 MR. TEPE: Objection to form.</p> <p>23 Foundation.</p> <p>24 THE WITNESS: That her inclusion on</p> <p>25 this list meant she was subject to the</p>	<p style="text-align: right;">Page 261</p> <p>1 explanation Mr. Cortes gave, namely that she</p> <p>2 was someone who self-reported her</p> <p>3 noncitizenship status, failed to complete an</p> <p>4 affirmation of citizenship in the allotted</p> <p>5 time frame, and continued to be in canceled</p> <p>6 status.</p> <p>7 BY MR. LOCKERBY:</p> <p>8 Q. Later on in Exhibit 11 there is</p> <p>9 another tab that is on a document that has the</p> <p>10 number PILF 00050 in the bottom right-hand</p> <p>11 corner.</p> <p>12 A. Okay, I'm looking at that page.</p> <p>13 Q. And on this particular document</p> <p>14 Mr. Bonilla has checked the box "Yes," "Are you a</p> <p>15 citizen of the United States?" Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. But on the same page it does say</p> <p>18 canceled - declared noncitizen 5/3/2012. Is that</p> <p>19 right?</p> <p>20 A. Yes, that language appears directly</p> <p>21 below his signature.</p> <p>22 Q. And then if you look at another tabbed</p> <p>23 page within Exhibit 11 -- this one unfortunately</p> <p>24 does not have a number on it. It's a voter</p> <p>25 application -- a voter registration application</p>

Page 262

1 for Luciania Freeman.

2 A. Yes, I'm looking at that page.

3 Q. And on this voter application back in  
4 2008, Ms. Freeman has checked the box "Yes" to  
5 "Are you a citizen of the United States?" Do you  
6 see that?

7 MR. TEPE: Did we already go through  
8 this?

9 MR. LOCKERBY: We did, yes. I'm  
10 setting a predicate. It's a segue question.

11 MR. TEPE: So it's okay now, a segue  
12 question.

13 THE WITNESS: She checked the box  
14 "Yes," I'm a United States citizen.

15 BY MR. LOCKERBY:

16 Q. But at the bottom of the page it says  
17 "canceled - declared noncitizen August 12, 2015,"  
18 correct?

19 MR. TEPE: Asked and answered.

20 THE WITNESS: Yes, it does.

21 BY MR. LOCKERBY:

22 Q. To be registered in the commonwealth  
23 of Virginia, as you understood it, a voter had to  
24 have checked the box "Yes" when registering to  
25 vote, correct?

Page 263

1 A. I believe that's a requirement. But  
2 in practice that's not always what happened. By  
3 that I mean some people that checked "No" were  
4 still registered to vote.

5 Q. But by and large, the majority of  
6 voters that later showed up as canceled  
7 noncitizen had originally checked the box "Yes."  
8 Isn't that right?

9 A. Yes.

10 Q. And the fact that a voter checked the  
11 box "Yes" did not mean the voter necessarily was  
12 a citizen of the United States. Is that right?

13 MR. TEPE: Objection to form. Lacks  
14 foundation.

15 THE WITNESS: That's my understanding.  
16 BY MR. LOCKERBY:

17 Q. If you look in Alien Invasion II, the  
18 body of the report that's been marked as Exhibit  
19 11 itself, at the bottom of page 13, do you see  
20 there is a footnote 69?

21 A. I see that.

22 Q. And then if you look after the  
23 conclusion of the report -- I said footnote.  
24 It's actually technically end note. End note 69  
25 says the voter registration applications are

Page 264

1 produced in Exhibit 12.

2 Do you see that?

3 A. I see that.

4 Q. And then if you read the sentence  
5 before the end note, it says: "For the remaining  
6 702 noncitizen registrants getting on the voter  
7 rolls was as easy as checking yes to the  
8 citizenship question."

9 That's what it says, right?

10 A. That's what it says.

11 Q. And it doesn't say that the registrant  
12 was not telling the truth when he or she checked  
13 the box "Yes," does it?

14 MR. TEPE: Objection to form.  
15 Leading.

16 THE WITNESS: It does not say that.

17 BY MR. LOCKERBY:

18 Q. And in fact was it true that for the  
19 remaining 702 noncitizen registrants getting on  
20 the voter rolls was as easy as checking "Yes" to  
21 the citizenship question?

22 MR. TEPE: Objection to form.

23 THE WITNESS: That is true.

24 BY MR. LOCKERBY:

25 Q. I would like you to look, please, at

Page 265

1 what's been marked as Exhibit 31 to your  
2 deposition.

3 A. Okay, I'm looking at Exhibit 31.

4 Q. At the bottom of Exhibit 31 there is  
5 an e-mail from a Tierney Sneed of Talking Points  
6 Memo. Do you know who she is?

7 A. I don't know who she is.

8 Q. Do you know anything about this  
9 publication Talking Points Memo that she says she  
10 works for or with?

11 MR. LOCKERBY: Objection to form.

12 THE WITNESS: I only know that it's a  
13 website.

14 BY MR. LOCKERBY:

15 Q. And as of Ms. Sneed's e-mail, had PILF  
16 itself actually seen the lawsuit in which you're  
17 now testifying?

18 MR. TEPE: Objection to form.

19 THE WITNESS: Had we seen the  
20 complaint at the time of this e-mail?

21 BY MR. LOCKERBY:

22 Q. Yes, sir.

23 A. No.

24 Q. In fact, she mentions a lawsuit being  
25 filed in federal court today. Do you see that?



<p style="text-align: right;">Page 266</p> <p>1 A. I see that.</p> <p>2 Q. So you don't have any idea how this</p> <p>3 alleged reporter obtained the complaint or had</p> <p>4 caught wind of it, or wing of it as she put it,</p> <p>5 before it was filed, do you?</p> <p>6 MR. TEPE: Objection to form.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MR. LOCKERBY:</p> <p>9 Q. Now, at the top of the page</p> <p>10 Mr. Vanderhulst mentions that he was surprised it</p> <p>11 hasn't happened sooner, a lawsuit or an IRS</p> <p>12 complaint or something.</p> <p>13 Have you yourself ever worked</p> <p>14 representing clients in connection with</p> <p>15 tax-exempt status?</p> <p>16 MR. TEPE: Objection to form. Outside</p> <p>17 the scope of the deposition.</p> <p>18 THE WITNESS: Yes, I have.</p> <p>19 BY MR. LOCKERBY:</p> <p>20 Q. And have you worked on litigation in</p> <p>21 which an entity's tax-exempt status has been,</p> <p>22 shall we say, held up at the IRS?</p> <p>23 MR. TEPE: Objection to form.</p> <p>24 Leading. Outside the scope.</p> <p>25 THE WITNESS: Yes, I have.</p>	<p style="text-align: right;">Page 267</p> <p>1 BY MR. LOCKERBY:</p> <p>2 Q. Well, I certainly wouldn't want to</p> <p>3 lead you, so let me rephrase the question.</p> <p>4 Have you worked on litigation</p> <p>5 involving -- or when you worked on litigation</p> <p>6 involving tax-exempt status, what was the nature</p> <p>7 of that litigation?</p> <p>8 MR. TEPE: Objection to the form.</p> <p>9 Outside the scope.</p> <p>10 THE WITNESS: It involved an entity</p> <p>11 that was targeted by the IRS in a so-called</p> <p>12 IRS targeting scandal involving Lois Lerner</p> <p>13 and others.</p> <p>14 BY MR. LOCKERBY:</p> <p>15 Q. And what was or were the entity or</p> <p>16 entities that were part of the IRS targeting</p> <p>17 scandal, as you use that term?</p> <p>18 MR. TEPE: Objection; outside the</p> <p>19 scope.</p> <p>20 THE WITNESS: Could you rephrase the</p> <p>21 question?</p> <p>22 BY MR. LOCKERBY:</p> <p>23 Q. What entity or entities had allegedly</p> <p>24 been targeted by the IRS?</p> <p>25 MR. TEPE: Same objection.</p>
<p style="text-align: right;">Page 268</p> <p>1 THE WITNESS: We represented an</p> <p>2 organization called True the Vote.</p> <p>3 BY MR. LOCKERBY:</p> <p>4 Q. And who were the defendants in that</p> <p>5 litigation?</p> <p>6 A. The IRS, the commissioner of the IRS,</p> <p>7 Lois Lerner and various IRS employees, and the</p> <p>8 chief counsel for the IRS.</p> <p>9 Q. And what was the nature of the</p> <p>10 allegations in that litigation?</p> <p>11 MR. TEPE: Objection; outside the</p> <p>12 scope.</p> <p>13 THE WITNESS: Our client alleged that</p> <p>14 her constitutional rights were violated in</p> <p>15 the processing of her tax-exempt status.</p> <p>16 The organization she headed, I should say.</p> <p>17 BY MR. LOCKERBY:</p> <p>18 Q. And were there any congressional</p> <p>19 investigations in connection with what you refer</p> <p>20 to as the IRS scandal?</p> <p>21 A. Yes, there were.</p> <p>22 Q. Were there any reports issued by the</p> <p>23 U.S. Congress in connection with that?</p> <p>24 A. Yes, there were.</p> <p>25 Q. And what report or reports were those,</p>	<p style="text-align: right;">Page 269</p> <p>1 if you call?</p> <p>2 A. Well, I recall a report issued by the</p> <p>3 inspector general for tax administration.</p> <p>4 MR. TEPE: I'm going to make a running</p> <p>5 objection to this line of questioning.</p> <p>6 BY MR. LOCKERBY:</p> <p>7 Q. And in view of that experience, would</p> <p>8 you yourself have been surprised if there had</p> <p>9 been some kind of complaint with the IRS</p> <p>10 involving PILF?</p> <p>11 A. No, I would not have been surprised.</p> <p>12 Q. Would you have been surprised or were</p> <p>13 you surprised that there might be a lawsuit</p> <p>14 against PILF resulting from publication of the</p> <p>15 Alien Invasion reports?</p> <p>16 MR. TEPE: Objection to form.</p> <p>17 Speculation.</p> <p>18 THE WITNESS: I was surprised that</p> <p>19 there was a lawsuit.</p> <p>20 BY MR. LOCKERBY:</p> <p>21 Q. When you received this e-mail from</p> <p>22 Logan Churchwell at 10:06 a.m., Thursday, April</p> <p>23 12, 2018, you replied five minutes later</p> <p>24 according to this. Right?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 270</p> <p>1 Q. And you wrote, quote: "Allison Riggs 2 is lead counsel you think?" 3 What do you mean by that? 4 A. I knew Allison Riggs to be involved 5 with the Southern Coalition for Social Justice, 6 who we knew had contacted at least Ms. Rosen 7 about her name or her records being included in 8 the Alien Invasion appendix. 9 Q. And in fact, when you saw the 10 complaint, did you see Allison Riggs' name and 11 organization's name as being among the 12 plaintiffs? 13 A. I believe so. 14 MR. TEPE: Objection to form. 15 Misstates the complaint. 16 BY MR. LOCKERBY: 17 Q. As of April 12, 2018, were you aware 18 of the involvement of Justin Levitt contacting 19 individuals identified in the exhibits to the 20 Alien Invasion reports? 21 MR. TEPE: Objection to form. 22 THE WITNESS: As of what date? 23 BY MR. LOCKERBY: 24 Q. April 12, 2018. 25 A. I was not aware of Mr. Levitt's</p>	<p style="text-align: right;">Page 271</p> <p>1 involvement at that time. 2 Q. When did you become aware of 3 Mr. Levitt's involvement? 4 MR. TEPE: Objection to form. 5 THE WITNESS: Through production of 6 discoverable material as a result of this 7 lawsuit. 8 BY MR. LOCKERBY: 9 Q. If you could look back, please, at 10 what was marked as Exhibit 13 to your deposition. 11 While you're at it, perhaps if you could pull 12 Exhibit 14 and Exhibit 15 as well. 13 A. I'm looking at Exhibit 13. 14 Q. And Exhibits 13, 14 and 15 are e-mails 15 from the registrar of York County, correct? 16 A. Correct. 17 Q. And the date of all three e-mails is 18 November 22, 2016. Is that right? 19 A. Correct. 20 Q. And as of the date of these e-mails, 21 had PILF received reports from the VERIS system 22 from the Department of Elections or any 23 jurisdiction in the Commonwealth of Virginia? 24 MR. TEPE: Objection to form. 25 THE WITNESS: Yes, some jurisdictions</p>
<p style="text-align: right;">Page 272</p> <p>1 had provided VERIS reports, but not the 2 Department of Elections. 3 BY MR. LOCKERBY: 4 Q. And the Department of Elections had 5 previously advised registrars not to provide the 6 records that PILF was requesting. Is that right? 7 MR. TEPE: Objection; form. 8 THE WITNESS: Correct. 9 BY MR. LOCKERBY: 10 Q. And as of November 22, 2016, did you 11 understand York County to be complying with the 12 Department of Elections' directive not to provide 13 a list of voters canceled because of a 14 declaration of noncitizenship? 15 MR. TEPE: Objection to form. 16 THE WITNESS: That's what he states in 17 one of his e-mails. 18 BY MR. LOCKERBY: 19 Q. Did you have any understanding as to 20 whether the documents being provided by York 21 County were responsive to the request that PILF 22 had previously made to York County and other 23 jurisdictions? 24 MR. TEPE: Objection to form. 25 THE WITNESS: Yes. It was my</p>	<p style="text-align: right;">Page 273</p> <p>1 understanding that the records he was 2 providing were responsive to our request. 3 BY MR. LOCKERBY: 4 Q. I would like you to look now, please, 5 at Exhibit 17. 6 A. I'm looking at Exhibit 17. 7 Q. And the date is May 17, 2017. Is that 8 right? 9 A. May 26, 2017. 10 Q. What's the -- 11 Can you look, please, at the document 12 that's marked VVA Deposition Exhibit 26, which is 13 dated May 17, 2017. I can simply show it to you 14 if you can't find it. It might speed things up. 15 That was an e-mail from you back in 16 May 2017, correct? 17 A. Yes. 18 Q. And as of the date of the e-mail, had 19 PILF previously hoped to publish Alien Invasion 20 II before May of 2017? 21 MR. TEPE: Objection; foundation. 22 THE WITNESS: I don't recall. 23 BY MR. LOCKERBY: 24 Q. I would like you to look now, please, 25 at what's previously been marked as Exhibit 38.</p>

<p style="text-align: right;">Page 274</p> <p>1 A. I'm looking at Exhibit 38.</p> <p>2 Q. And you see there is a column in</p> <p>3 Exhibit 38 that says "Registration Status."</p> <p>4 A. I see that.</p> <p>5 Q. And it says either -- it says canceled</p> <p>6 or active or inactive. Is that right?</p> <p>7 A. I see entries marked with each of</p> <p>8 those, yes.</p> <p>9 Q. And from this document, could you tell</p> <p>10 which voters had had their registrations canceled</p> <p>11 based on noncitizen status?</p> <p>12 A. No.</p> <p>13 MR. TEPE: Objection; form.</p> <p>14 THE WITNESS: No, I cannot tell.</p> <p>15 BY MR. LOCKERBY:</p> <p>16 Q. Had PILF requested information about</p> <p>17 voters whose registrations had been canceled</p> <p>18 because they were dead or moved to Nebraska or</p> <p>19 anything like that?</p> <p>20 MR. TEPE: Objection to form.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. LOCKERBY:</p> <p>23 Q. What reasons for cancellation was</p> <p>24 PILF's request directed to?</p> <p>25 A. For reasons of non-United States</p>	<p style="text-align: right;">Page 275</p> <p>1 citizenship.</p> <p>2 MR. LOCKERBY: All right. Thank you.</p> <p>3 I have no further questions.</p> <p>4 EXAMINATION</p> <p>5 BY MR. TEPE:</p> <p>6 Q. Mr. Johnson, the document you were</p> <p>7 just looking at that was marked as Exhibit 38.</p> <p>8 A. I have it in front of me.</p> <p>9 Q. The cover e-mail of Mr. Cortes states</p> <p>10 that the spreadsheet that was attached which</p> <p>11 notes whether or not someone has a canceled</p> <p>12 registration status pertains to those voters who</p> <p>13 were sent correspondence on potential</p> <p>14 noncitizenship by local registrars. Is that</p> <p>15 right?</p> <p>16 MR. LOCKERBY: Object to the form.</p> <p>17 MR. TEPE: What's the basis?</p> <p>18 MR. LOCKERBY: Pardon me?</p> <p>19 MR. TEPE: What's the basis?</p> <p>20 MR. LOCKERBY: The document speaks for</p> <p>21 itself.</p> <p>22 MR. TEPE: Let me start again.</p> <p>23 BY MR. TEPE:</p> <p>24 Q. Mr. Lockerby was asking you a couple</p> <p>25 of questions about Exhibit 38, correct?</p>
<p style="text-align: right;">Page 276</p> <p>1 A. Yes.</p> <p>2 Q. And he asked you about the</p> <p>3 registration status column. Is that right?</p> <p>4 A. He did.</p> <p>5 Q. And he suggested that this report</p> <p>6 wouldn't tell you the reason for someone's</p> <p>7 cancellation. Is that correct?</p> <p>8 MR. LOCKERBY: Objection.</p> <p>9 THE WITNESS: I stated that the report</p> <p>10 does not tell me the reason for the</p> <p>11 cancellation.</p> <p>12 BY MR. TEPE:</p> <p>13 Q. Now, if you go to the cover e-mail of</p> <p>14 Mr. Cortes --</p> <p>15 A. I'm looking at it.</p> <p>16 Q. He tells you that those individuals</p> <p>17 listed were sent correspondence concerning their</p> <p>18 citizenship status. Is that right?</p> <p>19 A. Is there a particular sentence you're</p> <p>20 referring to?</p> <p>21 Q. Yeah. The first sentence. "On</p> <p>22 September 16, the Department of Elections offered</p> <p>23 to create a customized report containing</p> <p>24 information available in our statewide voter</p> <p>25 registration system related to correspondence</p>	<p style="text-align: right;">Page 277</p> <p>1 sent to potential noncitizens by local general</p> <p>2 registrars."</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. And one of the fields is the date the</p> <p>6 correspondence regarding potential noncitizenship</p> <p>7 was sent, right?</p> <p>8 A. That's one of the fields.</p> <p>9 Q. And one of the fields is the date the</p> <p>10 response -- whether or not the person responded</p> <p>11 to correspondence. Is that right?</p> <p>12 A. Correct.</p> <p>13 Q. So this is not a report regarding</p> <p>14 individuals who were canceled because of felony</p> <p>15 status, correct?</p> <p>16 MR. LOCKERBY: Object to the form of</p> <p>17 the question. The document speaks for</p> <p>18 itself and it's contrary to evidence in the</p> <p>19 record.</p> <p>20 MR. TEPE: I don't appreciate your</p> <p>21 interpretation of evidence in the record.</p> <p>22 MR. LOCKERBY: Actually it's not my</p> <p>23 interpretation. It's the sworn testimony of</p> <p>24 Edgardo Cortes, commissioner of the Virginia</p> <p>25 Department of Elections.</p>

<p style="text-align: right;">Page 278</p> <p>1 MR. TEPE: It is your interpretation 2 of the testimony of Edgardo Cortes, and I 3 appreciate you declining from your speaking 4 objections. 5 THE WITNESS: Nothing in the attached 6 report gives a reason any one of those 7 individuals was canceled. 8 BY MR. TEPE: 9 Q. So my question was this is not a 10 report regarding individuals who are canceled 11 because of felony status, correct? That was my 12 question. Right? 13 A. I don't know if any of these 14 individuals were canceled for felony status. 15 Q. Right. Because Mr. Cortes didn't send 16 you a report generated based on citizenship -- he 17 did not send you a report based on felony status, 18 correct? 19 MR. LOCKERBY: Object to the form. 20 THE WITNESS: Again, I think what he 21 says is in the report. It speaks for 22 itself. 23 BY MR. TEPE: 24 Q. He sent you a report that lists people 25 who were sent correspondence about potential</p>	<p style="text-align: right;">Page 279</p> <p>1 noncitizenship, correct? 2 A. Correct. 3 Q. And the report provides current 4 registration status for those individuals, 5 correct? 6 A. Correct. 7 Q. Some were in active status, right? 8 A. Yes. 9 Q. And some were in canceled status? 10 A. Correct. 11 Q. But all of these individuals were sent 12 correspondence regarding their citizenship, 13 correct? 14 A. That's what Mr. Cortes says, yes. 15 Q. Now, am I understanding your testimony 16 that this report was not sufficient because 17 possibly some of these individuals who were 18 canceled for failure to provide an affirmation of 19 citizenship later died? 20 A. That's one of the possible reasons 21 that it's not sufficient. It's also not what we 22 asked for. 23 Q. You asked for documents pertaining to 24 individuals who were canceled due to potential 25 noncitizenship, correct?</p>
<p style="text-align: right;">Page 280</p> <p>1 A. At this point in time Mr. Cortes knew 2 we were asking for the VERIS reports because he 3 instructed his county officials not to give us 4 those reports. 5 Q. Right. And you testified earlier that 6 you wanted those VERIS reports, correct? 7 A. Yes. 8 Q. Right. And you wanted those VERIS 9 reports because they had the notation "declared 10 noncitizen" on it, correct? 11 A. That, and that they were generated 12 from the VERIS system. 13 Q. Right. But having a report generated 14 from the VERIS system wasn't sufficient for 15 PILF's purposes, correct? Because he generated a 16 custom report which you rejected, correct? 17 A. We -- 18 MR. LOCKERBY: Objection; asked and 19 answered repeatedly. 20 THE WITNESS: We did not reject this 21 report. We said it was not sufficient to 22 satisfy our records request. 23 BY MR. TEPE: 24 Q. Because PILF wanted reports that said 25 "declared noncitizenship" on it, correct?</p>	<p style="text-align: right;">Page 281</p> <p>1 MR. LOCKERBY: Object to the form. 2 THE WITNESS: The reports we wanted 3 said "declared noncitizenship" on them, yes. 4 BY MR. TEPE: 5 Q. And these were reports of voter 6 registration cancellation, correct? 7 A. Yes. 8 Q. These were not reports adjudicating 9 people's citizenship, correct? 10 MR. LOCKERBY: Object to the form. 11 Asked and answered repeatedly now. 12 THE WITNESS: Again, the way that they 13 are compiled means, according to Mr. Cortes, 14 that the individual stated under oath that 15 they are not a citizen. 16 BY MR. TEPE: 17 Q. And also these records were compiled 18 after citizens stated under oath that they were a 19 citizen by getting onto the voter registration 20 application -- voter rolls, correct? 21 A. Can you repeat the question? 22 Q. And these records were also compiled 23 after citizens stated under oath that they were 24 U.S. citizens in order to get on the voter rolls, 25 correct?</p>

<p style="text-align: right;">Page 282</p> <p>1 A. At some point in time they were added 2 to the voter rolls. I don't know if each one of 3 them indicated at that time they were a citizen. 4 Q. Well, you had looked at 764 voter 5 registration applications, correct? 6 A. Yes. 7 Q. And 702 of those had the applicants 8 checking "Yes," they were a citizen. 9 A. Yes. 10 Q. And so do you not believe they're 11 checking that they are U.S. citizens? 12 A. Well, I can see that on the 13 application that they checked "Yes," if that's 14 what you're asking. 15 Q. But you said before that certain 16 people, to your knowledge, got onto the VERIS 17 reports because they checked "No," they were not 18 a citizen, and you made the emphasis that it was 19 under oath, correct? 20 A. Well, they didn't get onto the VERIS 21 report. They got onto the voter roll. 22 Q. No. My question was you testified 23 earlier that people at the DMV checked "No" with 24 regard to citizenship, correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 283</p> <p>1 Q. And that's how they got onto the VERIS 2 reports, correct? 3 A. People that were already on the voter 4 roll subsequently checked "No"? That may be one 5 way that they are flagged as noncitizens, yes, 6 sir. 7 Q. So these individuals had checked "Yes" 8 to get on the rolls, and then potentially checked 9 "No" at the DMV, which triggered a cancellation? 10 A. Yeah, that's a possible process. Yes. 11 Q. And the State of Virginia has not 12 adjudicated whether or not these individuals are 13 citizens, correct? 14 A. Right. As far as I understand it, the 15 list is compiled based on the sworn statements of 16 the applicant. 17 Q. Is it the case that you want to 18 believe that these individuals are not citizens? 19 A. No. The records reflect what they 20 reflect. 21 Q. Right. And so you had records 22 reflecting in one case citizenship and in one 23 case potentially noncitizenship, correct? 24 A. Yes, there could be that case. 25 Q. And in that case you don't know if</p>
<p style="text-align: right;">Page 284</p> <p>1 these individuals are or are not citizens, 2 correct? 3 A. I can take them at their word for what 4 they say on the form. 5 Q. Which form? 6 A. What do you mean, which form? 7 Q. You have two forms, one saying 8 citizenship, one potentially saying 9 noncitizenship. Which one are you taking them at 10 their word for? 11 A. Well, the subsequent registration is 12 the more recent in time. 13 Q. So you were choosing to believe that 14 form over another form? 15 A. I'm not choosing to believe anything. 16 Q. You're not? 17 A. The Department of Elections or the 18 county registrar is the one who makes that 19 determination. 20 Q. And all they do is actually just send 21 a notice of intent to cancel to voters who they 22 have conflicting information about and then tell 23 people to affirm their citizenship if they are in 24 fact citizens, correct? 25 A. Well, not every case is going to have</p>	<p style="text-align: right;">Page 285</p> <p>1 conflicting information. Like I said, we have 2 people who checked "No" on their original 3 application and still registered to vote. 4 Q. And Alien Invasion II is not limited 5 to those people, correct? 6 A. No. 7 Q. Alien Invasion II calls 5562 people 8 noncitizens even though you have information that 9 at least 702 of them had said yes, they're a 10 citizen, correct? 11 A. No. It's based on their inclusion in 12 the VERIS report that says "declared noncitizen" 13 next to their name. 14 Q. Right. And so that is the report that 15 you want to believe, correct? 16 MR. LOCKERBY: Object to the form. 17 THE WITNESS: It's the report on which 18 the report relies, yes. 19 BY MR. TEPE: 20 Q. And so you never called Luciania 21 Freeman even though you had records indicating 22 that she checked "Yes," that she was a citizen, 23 correct? 24 A. We never called Luciania Freeman. 25 Q. And you never called Eliud Bonilla,</p>



<p style="text-align: right;">Page 286</p> <p>1 correct?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. And yet you called them in Alien</p> <p>4 Invasion II noncitizens, correct?</p> <p>5 MR. LOCKERBY: Objection.</p> <p>6 THE WITNESS: They are -- they are</p> <p>7 included in the report under all of the data</p> <p>8 that is in there. They are two of those</p> <p>9 people.</p> <p>10 THE VIDEOGRAPHER: Excuse me, counsel.</p> <p>11 Your mic.</p> <p>12 BY MR. TEPE:</p> <p>13 Q. Mr. Lockerby asked you questions about</p> <p>14 what was marked as VVA Deposition Exhibit 39.</p> <p>15 A. He did.</p> <p>16 Q. You asked Mr. Cortes a question at</p> <p>17 3:01 p.m. on March 28th.</p> <p>18 A. My e-mail on that day includes a</p> <p>19 question, yes.</p> <p>20 Q. You didn't ask Mr. Cortes for a</p> <p>21 definition of what declared noncitizen means, did</p> <p>22 you?</p> <p>23 A. No, not in that e-mail.</p> <p>24 Q. Did Mr. von Spakovsky -- Strike that.</p> <p>25 Who is Hans von Spakovsky?</p>	<p style="text-align: right;">Page 287</p> <p>1 A. He is a board member of the</p> <p>2 foundation.</p> <p>3 Q. To your recollection, did he opine on</p> <p>4 the content of either of the Alien Invasion</p> <p>5 reports before they were published?</p> <p>6 A. I believe he did, yes.</p> <p>7 MR. TEPE: Nothing further from me.</p> <p>8 EXAMINATION</p> <p>9 BY MR. LOCKERBY:</p> <p>10 Q. Just briefly, if the Commonwealth of</p> <p>11 Virginia wanted to determine which sworn</p> <p>12 statement is true where voters checked "Yes" on</p> <p>13 one form, I am a United States citizen, but "No"</p> <p>14 on a DMV form, I'm not a United States citizen,</p> <p>15 does the Commonwealth of Virginia, as far as you</p> <p>16 know, have some documents that would help it make</p> <p>17 that determination?</p> <p>18 MR. TEPE: Objection to form.</p> <p>19 Foundation.</p> <p>20 THE WITNESS: The DMV could have</p> <p>21 documents presented with a driver's license</p> <p>22 application that would show whether the</p> <p>23 person was a noncitizen, such as a copy of a</p> <p>24 green card.</p> <p>25 BY MR. LOCKERBY:</p>
<p style="text-align: right;">Page 288</p> <p>1 Q. And again, those are documents to</p> <p>2 which you, PILF, had access?</p> <p>3 A. Correct.</p> <p>4 MR. LOCKERBY: Thank you. I have no</p> <p>5 further questions.</p> <p>6 THE VIDEOGRAPHER: This marks the end</p> <p>7 of the deposition of Noel Johnson. We are</p> <p>8 going off the record. The time is 5:15 p.m.</p> <p>9 (Deposition adjourned at 5:15 p.m.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 289</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, NOEL JOHNSON, have read or have had the</p> <p>4 foregoing testimony read to me and hereby certify</p> <p>5 that it is a true and correct transcription of my</p> <p>6 testimony with the exception of any attached</p> <p>7 corrections or changes.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 _____</p> <p>12 NOEL JOHNSON</p> <p>13 [ ] No corrections</p> <p>14 [ ] Correction sheet(s) enclosed</p> <p>15</p> <p>16 SUBSCRIBED AND SWORN TO BEFORE ME, the</p> <p>17 undersigned authority, by the witness, NOEL</p> <p>18 JOHNSON, on this the _____ day of</p> <p>19 _____, _____.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 290		Page 291	
1	CERTIFICATE	1	ERRATA SHEET
2		2	Case Name:
3	DISTRICT OF COLUMBIA	3	Deposition Date:
4	I, JOHN L. HARMONSON, a Notary Public	4	Deponent:
5	within and for the District of Columbia, do	5	Pg. No. Now Reads Should Read Reason
6	hereby certify:	6	_____
7	That NOEL JOHNSON, the witness	7	_____
8	whose deposition is hereinbefore set forth, was	8	_____
9	duly sworn or affirmed by me and that such	9	_____
10	deposition is a true record of the testimony	10	_____
11	given by such witness.	11	_____
12	That if the foregoing pertains to a	12	_____
13	federal case, before completion of the	13	_____
14	proceedings, review and signature of the	14	_____
15	transcript [x] was [ ] was not requested.	15	_____
16	I further certify that I am not related	16	_____
17	to any of the parties to this action by blood or	17	_____
18	marriage; and that I am in no way interested in	18	_____
19	the outcome of this matter.	19	_____
20	IN WITNESS WHEREOF, I have hereunto set	20	
21	my hand this 24th day of April, 2019.	21	Signature of Deponent
22		22	SUBSCRIBED AND SWORN BEFORE ME
23		23	THIS ____ DAY OF _____, 2019.
24	JOHN L. HARMONSON, RPR	24	
25	My commission expires: 11/14/20	25	(Notary Public) MY COMMISSION EXPIRES: _____

<b>A</b>	25:25 27:21,25 34:1 162:19	44:16 100:2 110:25 111:13 223:1	<b>ago (1)</b> 194:7	151:17 152:7,23 153:3,8 156:17,23
<b>a.m (14)</b> 2:6 9:3,16 31:8,11 67:6,9 151:14 152:1 154:22 166:16 205:13 258:14 269:22	<b>activity (1)</b> 165:6 <b>ActRight (10)</b> 18:1 28:3,7,18,22 29:5,11,24 30:5,12	<b>adds (1)</b> 66:8 <b>adjourned (1)</b> 288:9 <b>adjudicated (1)</b> 283:12 <b>adjudicating (1)</b> 281:8 <b>adjudication (2)</b> 248:24 249:8 <b>administering (1)</b> 2:17 <b>administration (1)</b> 269:3 <b>advantageous (5)</b> 180:22 181:2,5,7,12 <b>advised (1)</b> 272:5 <b>advocate (2)</b> 26:12,14 <b>advocated (2)</b> 102:3,5 <b>advocating (2)</b> 104:11 189:1 <b>affiliated (1)</b> 156:21 <b>affirm (4)</b> 54:22 55:8 56:12 284:23 <b>affirmation (26)</b> 41:1,4,7 42:14 43:19 52:3,17 53:15 54:4 54:8 118:5 119:25 120:14,20 123:13 124:8,9 125:3 246:11 248:13 249:7 258:18 259:9 259:25 261:4 279:18 <b>affirmations (1)</b> 203:18 <b>affirmed (6)</b> 10:3 117:22 126:24 134:4 258:21 290:9 <b>affirming (2)</b> 41:17 248:23 <b>affirms (1)</b> 248:3 <b>afternoon (3)</b> 141:2 151:22 166:15 <b>age (1)</b> 84:9 <b>Agee (2)</b> 61:1 65:3	<b>agree (20)</b> 52:8 70:11 97:11 98:7 105:14 108:24 160:23,24 161:1,3 173:17 180:24 185:14,19,20 187:11 192:25 218:3 231:2 244:10 <b>ahead (2)</b> 160:1 192:13 <b>Ahmad (1)</b> 31:23 <b>al (4)</b> 1:7,10 9:9,10 <b>Alabama (1)</b> 157:11 <b>alarming (1)</b> 89:21 <b>Alexandria (6)</b> 1:3 183:17 186:9,14 215:12 216:6 <b>alien (207)</b> 5:8,10 20:8 23:15,17 24:7 57:9,13 64:15 66:24 68:3,7,10,20 69:11 70:6 71:3 73:4 74:3,14,23 75:10,14,21 81:2,7 83:5 84:20,21 85:13 85:17,21,25 86:23 86:24 87:10,24 91:23 92:20 93:11 93:15 94:8,18 95:23 96:8 97:12 98:8,16 98:21 99:17,23 100:12,16,19,24 101:14 102:2,3,11 104:25 105:11,18 105:25 106:13,15 112:1 113:2,6 117:7 117:20 122:7 124:14,24 125:18 127:4 128:6,8,11,18 129:14 131:4 132:1 132:6,17 133:1,3,21 133:23 134:2,4,9,11 134:16 136:11,14 137:24 138:12,22 139:8,16,17,22 141:11,24 142:11 142:16 143:21 144:21,24 145:3,4 146:21,25 147:18 147:22 148:3,17	151:17 152:7,23 153:3,8 156:17,23 162:12,20,25 163:4 163:12,17 165:7,10 165:12 166:22 167:7,12 168:25 170:12,25 171:18 174:6 177:18 180:10,18 181:9,15 182:19 187:6 192:24 193:8,15 195:3 196:25 197:7 198:5,19,23 200:7 203:2,7 205:3,9 206:18 208:6,11,16 213:22 218:3,15,21 219:1,16,21 221:8 223:3,17 224:15,19 225:18 231:4 233:6 233:11 234:2,6 236:2 238:13 239:8 240:23,24 246:17 252:1,6,12 253:16 253:24 255:6 256:23 259:17 263:17 269:15 270:8,20 273:19 285:4,7 286:3 287:4 <b>aliens (7)</b> 76:21 80:13 81:2,5,12 87:5 230:20 <b>allegations (1)</b> 268:10 <b>alleged (3)</b> 161:25 266:3 268:13 <b>allegedly (1)</b> 267:23 <b>Alliance (5)</b> 21:14 76:7 87:15 90:16,17 <b>Alliance's (1)</b> 76:4 <b>allies (1)</b> 214:25 <b>Allison (3)</b> 270:1,4,10 <b>allotted (4)</b> 258:18 259:10,25 261:4 <b>allowed (2)</b> 54:23 99:21 <b>Amen (1)</b> 185:10 <b>Amendment (3)</b> 30:17,22 31:3 <b>America (3)</b>
<b>Abby (2)</b> 116:18 120:9 <b>abiding (1)</b> 119:14 <b>ability (2)</b> 187:12 190:16 <b>able (5)</b> 170:15 185:14,20 187:6,11 <b>abroad (1)</b> 130:25 <b>absolutely (1)</b> 236:9 <b>accepting (1)</b> 241:6 <b>access (9)</b> 99:22 169:25 170:4 170:20 249:15 250:3,24 251:6 288:2 <b>accident (1)</b> 10:19 <b>accomplish (3)</b> 19:11 188:25 189:8 <b>accuracy (1)</b> 34:2 <b>accurate (4)</b> 11:9 52:19 186:15 233:12 <b>accusation (2)</b> 127:18 162:8 <b>accuse (1)</b> 162:4 <b>accused (3)</b> 108:14,15 161:23 <b>accusing (2)</b> 108:21 162:2 <b>ACKNOWLEDG...</b> 289:1 <b>act (8)</b> 20:12,23 25:22 26:3,5 33:16,20 130:17 <b>action (5)</b> 1:7 54:20 91:3,6 290:17 <b>active (5)</b> 21:25 241:3 258:23 274:6 279:7 <b>activities (5)</b>	<b>actual (1)</b> 230:18 <b>Adams (100)</b> 3:19 10:7 14:1,6,19 15:13,16 17:4 19:4 19:8,13,19 47:17 48:20,25 68:9,12 69:2 70:16 71:2,9 71:20 72:8 73:10 101:21 105:25 136:16 143:15 146:16 149:7 150:18 151:4,15 152:2,5,21 153:12 153:24 154:7,25 155:8,10 156:3,12 156:16,22 163:8 166:5,11,13 167:7 167:25 168:5 171:16 172:9,18 173:1,13 174:9 176:6,14,16,23 177:25 178:5 180:7 182:10 183:1,8 184:17 187:5 189:24 191:3,7 196:5,8,13,19 197:9 197:10 198:22 214:17 218:2 220:14 221:23 222:3,9,24 223:15 225:22 228:22 229:8,22 230:10 231:2,8,12 232:20 240:9 246:1 <b>added (1)</b> 282:1 <b>addition (1)</b> 163:8 <b>additional (2)</b> 74:20 160:14 <b>address (16)</b> 82:20 94:4,5,6,15,16 95:14 97:3,3,4 130:21 131:6,9 172:12,13 239:1 <b>addressed (2)</b> 51:15 236:1 <b>addresses (5)</b>	<b>age (1)</b> 84:9 <b>Agee (2)</b> 61:1 65:3	<b>ago (1)</b> 194:7 <b>agree (20)</b> 52:8 70:11 97:11 98:7 105:14 108:24 160:23,24 161:1,3 173:17 180:24 185:14,19,20 187:11 192:25 218:3 231:2 244:10 <b>ahead (2)</b> 160:1 192:13 <b>Ahmad (1)</b> 31:23 <b>al (4)</b> 1:7,10 9:9,10 <b>Alabama (1)</b> 157:11 <b>alarming (1)</b> 89:21 <b>Alexandria (6)</b> 1:3 183:17 186:9,14 215:12 216:6 <b>alien (207)</b> 5:8,10 20:8 23:15,17 24:7 57:9,13 64:15 66:24 68:3,7,10,20 69:11 70:6 71:3 73:4 74:3,14,23 75:10,14,21 81:2,7 83:5 84:20,21 85:13 85:17,21,25 86:23 86:24 87:10,24 91:23 92:20 93:11 93:15 94:8,18 95:23 96:8 97:12 98:8,16 98:21 99:17,23 100:12,16,19,24 101:14 102:2,3,11 104:25 105:11,18 105:25 106:13,15 112:1 113:2,6 117:7 117:20 122:7 124:14,24 125:18 127:4 128:6,8,11,18 129:14 131:4 132:1 132:6,17 133:1,3,21 133:23 134:2,4,9,11 134:16 136:11,14 137:24 138:12,22 139:8,16,17,22 141:11,24 142:11 142:16 143:21 144:21,24 145:3,4 146:21,25 147:18 147:22 148:3,17	151:17 152:7,23 153:3,8 156:17,23 162:12,20,25 163:4 163:12,17 165:7,10 165:12 166:22 167:7,12 168:25 170:12,25 171:18 174:6 177:18 180:10,18 181:9,15 182:19 187:6 192:24 193:8,15 195:3 196:25 197:7 198:5,19,23 200:7 203:2,7 205:3,9 206:18 208:6,11,16 213:22 218:3,15,21 219:1,16,21 221:8 223:3,17 224:15,19 225:18 231:4 233:6 233:11 234:2,6 236:2 238:13 239:8 240:23,24 246:17 252:1,6,12 253:16 253:24 255:6 256:23 259:17 263:17 269:15 270:8,20 273:19 285:4,7 286:3 287:4 <b>aliens (7)</b> 76:21 80:13 81:2,5,12 87:5 230:20 <b>allegations (1)</b> 268:10 <b>alleged (3)</b> 161:25 266:3 268:13 <b>allegedly (1)</b> 267:23 <b>Alliance (5)</b> 21:14 76:7 87:15 90:16,17 <b>Alliance's (1)</b> 76:4 <b>allies (1)</b> 214:25 <b>Allison (3)</b> 270:1,4,10 <b>allotted (4)</b> 258:18 259:10,25 261:4 <b>allowed (2)</b> 54:23 99:21 <b>Amen (1)</b> 185:10 <b>Amendment (3)</b> 30:17,22 31:3 <b>America (3)</b>

83:1 95:19 97:9 <b>American (4)</b> 1:6 9:8 21:15 164:25 <b>amici (2)</b> 227:4,7 <b>amount (2)</b> 129:15 145:9 <b>analysis (2)</b> 90:18 153:21 <b>Andrew (2)</b> 3:8 258:4 <b>announcement (2)</b> 136:17 137:19 <b>answer (25)</b> 11:25 12:1,11 16:17 18:13,16 21:10,12 25:23 38:18,22 56:18 91:16 112:12 116:1 155:25 161:14 170:15 171:9 178:17 180:14 183:20 216:16,18 257:18 <b>answered (17)</b> 25:17 35:9 38:17 42:11 106:9,22 111:16 112:25 113:3 114:4 125:16 127:8 185:24 219:7 262:19 280:19 281:11 <b>answers (1)</b> 251:20 <b>Apparently (1)</b> 179:13 <b>appear (12)</b> 21:21 75:9 115:18 120:3 124:7 149:10 166:1 204:10 213:20 216:16 238:8 258:22 <b>appearance (5)</b> 23:7,10,13 162:17 165:16 <b>appearances (8)</b> 9:24 22:25 23:4 163:9 165:9 167:7 171:3,5 <b>appeared (8)</b> 23:23 24:1,3 162:15 183:6 188:24 227:4 259:6 <b>appearing (1)</b> 73:24 <b>appears (17)</b> 40:12 75:10 82:16 85:13,19 95:13	122:4,9 129:8 144:15 164:3 168:9 173:16 225:18 230:10 245:18 261:20 <b>appendix (1)</b> 270:8 <b>applicant (3)</b> 174:3,15 283:16 <b>applicants (4)</b> 113:14 115:8 177:9 282:7 <b>application (46)</b> 42:25 43:7,16 51:20 52:10 82:16 94:22 95:12 96:19 97:1 98:12 114:20 116:18 117:1,2,8 118:4 121:24 122:4 122:6 124:17 125:1 125:10,23 126:7,8 127:4,14 195:2 199:12 200:9,12,20 203:4,11 207:2 210:21 260:10,12 261:25,25 262:3 281:20 282:13 285:3 287:22 <b>applications (39)</b> 81:17,24 82:3 86:17 111:23,25 112:4,5,8 112:11,17,21 113:14 114:4 115:2 116:2 126:1 127:1 139:24 140:1,7 174:2,5,14 177:8,13 192:3,4,8,12 195:8 204:2,14 206:4 207:20 208:22 211:17 263:25 282:5 <b>applied (1)</b> 187:24 <b>appreciate (8)</b> 199:21,23,25 200:2,3 258:6 277:20 278:3 <b>appreciated (1)</b> 135:20 <b>appreciates (1)</b> 159:16 <b>approved (1)</b> 26:2 <b>approximately (1)</b> 9:15 <b>apps (2)</b> 205:17 206:8	<b>April (19)</b> 1:18 2:5 9:15 120:11 123:18 124:4,7,10 225:23 245:21 246:1 252:19 257:23 258:13 260:19 269:22 270:17,24 290:21 <b>archive (4)</b> 209:25 210:16,25 212:5 <b>archives (1)</b> 207:10 <b>arguing (2)</b> 115:22 192:15 <b>Argumentative (1)</b> 183:24 <b>arising (1)</b> 233:4 <b>Arlington (1)</b> 231:17 <b>Arps (2)</b> 2:10 3:4 <b>art (1)</b> 168:20 <b>article (4)</b> 129:17,20 137:18 182:19 <b>ASAP (6)</b> 135:17 137:19,25 152:2,23 155:18 <b>aside (14)</b> 46:22 84:18 104:22 162:10 180:17 185:13 193:5 206:2 213:7 218:23 222:23 232:3 245:1 246:20 <b>asked (45)</b> 11:1 15:3,11,21 17:1 17:1 18:23 20:24 24:21 25:16 35:8 38:11,17 42:11 106:9,21 111:16 127:8 140:6 156:1 177:1 185:18,23 192:16 196:19,22 216:15,24 217:1,3 219:6 221:24,24 232:21 240:17,20 241:15 262:19 276:2 279:22,23 280:18 281:11 286:13,16 <b>asking (44)</b> 20:21 22:9,10 24:24	30:24,25 31:5 35:4 35:5 40:2,8,13 52:20 89:10 117:14 132:5 152:8 153:12 168:7 174:13,22 175:3,16,21,22 176:5,9,13,14,14,16 178:4,16 179:16 196:6 198:13 216:10 222:19,20 224:17 247:13 275:24 280:2 282:14 <b>asks (1)</b> 173:19 <b>aspect (2)</b> 19:23 20:11 <b>assembly (6)</b> 23:25 145:23 162:17 214:14 218:8 232:17 <b>asserting (1)</b> 234:4 <b>assertions (1)</b> 233:6 <b>assistance (3)</b> 90:19,22,23 <b>assistant (1)</b> 147:14 <b>associates (1)</b> 15:12 <b>association (1)</b> 9:20 <b>assume (3)</b> 11:13 117:12 179:7 <b>assumes (4)</b> 98:1 183:24 201:25 202:18 <b>assuming (3)</b> 43:15 218:3,8 <b>assumptions (1)</b> 230:19 <b>asterisk (4)</b> 206:25 207:3,5,24 <b>attached (61)</b> 2:14 28:11 31:13 46:18 49:20 67:24 69:19 70:19 71:24 72:15 75:3 85:5 99:8 118:12 119:22 120:4 121:4 122:2 122:11 128:23 143:5 144:4,6 145:17,19 148:21 149:24 150:22 154:14 157:1,18	163:21 165:18 167:17 171:21 180:10 181:19 187:16 195:12,25 204:20 206:10 212:22 214:3 220:17 223:6 224:2 224:6 225:10,19 228:12 232:5 234:5 237:4 238:4 239:22 242:1 253:4 275:10 278:5 289:6 <b>attaches (1)</b> 145:13 <b>attaching (5)</b> 71:2 72:9 146:17 232:14 245:14 <b>attachment (5)</b> 59:14 70:2 123:9 253:9,10 <b>attachments (3)</b> 32:13 70:3,4 <b>attacks (2)</b> 222:5,15 <b>attempted (1)</b> 226:4 <b>attendance (1)</b> 14:20 <b>attending (1)</b> 10:7 <b>attention (5)</b> 32:12 86:6,8 184:20 189:11 <b>attesting (1)</b> 83:6 <b>attorney (20)</b> 12:18 20:12,23 30:13 80:11 147:8,11,14 149:12 150:6,13,19 150:19 151:5,6,21 156:13 157:13 158:1 159:11 <b>attorney's (3)</b> 152:12 155:17 160:12 <b>attorney-client (1)</b> 18:10 <b>attorneys (7)</b> 147:5 148:10 150:11 150:16 160:1,5,15 <b>attract (1)</b> 169:19 <b>August (16)</b> 32:2,23 36:25 37:11 46:4 47:12 49:13 50:18,19 66:9,14 158:21 228:22
--	--	---	---	--

158:21 228:22 253:7 255:1 262:17 <b>author (2)</b> 176:8 193:18 <b>authorities (1)</b> 158:14 <b>authority (2)</b> 103:9 289:16 <b>available (5)</b> 33:24 82:4 173:9 237:19 276:24 <b>Avenue (3)</b> 2:11 3:5 9:14 <b>avoid (1)</b> 167:1 <b>aware (30)</b> 45:10 66:10,15 83:17 83:19,23 84:1 91:11 93:8 109:24 117:9 117:20 118:8 127:17 148:2,9 156:15,20 159:9 160:4,14 186:8 198:3 201:12 204:12 222:17 243:21 270:17,25 271:2	179:17 180:20 186:10 194:24 218:5 259:14 260:18 274:11 278:16,17 283:15 285:11 <b>basically (1)</b> 51:3 <b>basis (23)</b> 25:20 55:4 56:7,9,14 66:20 115:4 117:14 124:15 129:24 136:9 161:12 175:18 186:6 202:13 203:8,21 219:4 220:4 231:11 256:7 275:17,19 <b>batch (3)</b> 119:22 121:15,23 <b>Bates (46)</b> 32:14 46:24 49:24 51:7 57:1 58:2,9,20 59:18 70:22 72:2,22 95:5 99:13 118:15 120:5 121:7 122:14 123:10 129:1 135:3 143:9 146:11 148:25 150:25 154:17 157:5 163:24 165:22 167:20 171:24 181:23 187:19 195:15 204:23 212:25 214:7 220:20 223:10 225:13 228:15 232:8 237:8 239:25 242:4 245:10 <b>Bates-numbered (1)</b> 229:10 <b>beat (2)</b> 135:16 136:3 <b>Bedford (10)</b> 50:7,15 56:4 77:8 78:6 84:5,7 100:21 133:11 247:8 <b>began (1)</b> 252:5 <b>beginning (6)</b> 43:20 49:24 118:15 143:9 228:16 237:8 <b>begins (13)</b> 31:22 73:10 87:23 113:12 121:7 164:17 172:8 182:9 195:21 214:16	220:24 237:16 245:11 <b>begun (1)</b> 231:9 <b>behalf (8)</b> 3:3,11 21:21 23:1,20 33:12 200:25 201:8 <b>behavior (3)</b> 107:5,13 108:15 <b>belief (9)</b> 175:1,2 194:9,14,17 194:18,19,22 207:16 <b>believe (111)</b> 23:11 29:18 33:7 41:3 43:2 45:18 48:1,24 49:15 56:7,9,14 58:11 66:5,20 67:21 71:2 73:16 77:3 79:23 83:22 91:2,5 91:24 92:12 93:14 99:5,10 105:7,24 108:13 116:12,15 116:19 124:3,17 126:21 131:5,19 140:4 141:17 142:3 143:3 144:22 147:2 148:8 152:8 156:2 160:7,10 161:17,19 161:22 162:17 166:5 177:6 180:1,8 186:8,23 187:22 190:16 195:20 197:18,19 201:16 202:10 203:8,24,25 207:19 208:13 211:16,20 213:18 216:7,24 221:9 222:4 223:25 226:11 227:1,8,19 228:10 231:22 232:2,20,24 233:16 233:22 235:3,4,7 236:1 241:23 243:25 247:19 252:15 253:19 255:4 257:4 260:7 263:1 270:13 282:10 283:18 284:13,15 285:15 287:6 <b>believed (3)</b> 108:6 203:10 207:20 <b>believing (1)</b> 115:4 <b>Belle (2)</b>	14:12,20 <b>belonged (1)</b> 207:21 <b>belonging (1)</b> 210:22 <b>beneath (1)</b> 90:2 <b>Benjamin (1)</b> 64:7 <b>best (2)</b> 170:15 179:7 <b>better (7)</b> 20:20 175:11,12 178:11,12 189:5 222:4 <b>bigger (1)</b> 102:14 <b>Billy (1)</b> 60:25 <b>bit (1)</b> 66:6 <b>blamed (1)</b> 127:12 <b>blood (1)</b> 290:17 <b>board (5)</b> 29:21 34:19 47:23,25 287:1 <b>bodies (2)</b> 23:19,22 <b>body (2)</b> 149:17 263:18 <b>bold (3)</b> 76:18 78:14 80:10 <b>bolded (2)</b> 76:17 78:22 <b>Bonilla (10)</b> 94:1,7,22 95:12,24 96:9,13 259:16 261:14 285:25 <b>Bonilla's (1)</b> 255:21 <b>booker (1)</b> 173:4 <b>books (1)</b> 215:22 <b>Bopp (2)</b> 30:13,15 <b>bottom (23)</b> 31:25 36:20 57:7 76:3 78:4,11,13 94:2 96:25 113:12 114:8 123:16 137:6 151:13 223:15 254:23 255:23 256:11,20 261:10	262:16 263:19 265:4 <b>box (14)</b> 95:18 103:6 112:14 112:21 174:7 177:10 254:15 261:14 262:4,13,24 263:7,11 264:13 <b>boxes (4)</b> 173:21 177:3,15,24 <b>break (14)</b> 12:8,9,12 56:18,20 78:9 108:10 127:20 140:9 212:18 213:7 254:3 257:17 258:4 <b>breaking (2)</b> 108:14,15 <b>Bret (3)</b> 23:10,13 162:18 <b>brief (3)</b> 10:24 218:20 227:8 <b>briefed (3)</b> 215:3 218:8,14 <b>briefly (4)</b> 14:11 44:5 146:3 287:10 <b>broader (1)</b> 29:6 <b>Brooks (1)</b> 159:16 <b>brought (2)</b> 86:5,7 <b>bubble (1)</b> 229:6 <b>bulk (1)</b> 139:21 <b>bullet (1)</b> 172:23 <b>bunch (3)</b> 121:19 145:22 229:5 <b>business (4)</b> 19:7,10,18 71:8
<hr/>				
<b>B</b>				
<b>B (1)</b> 257:18 <b>back (26)</b> 31:10 36:23 37:21 55:22 67:8 80:9,20 87:23 89:1 123:25 125:9 128:3 130:19 141:5 146:7 176:21 189:12,22 213:11 222:3 236:13 247:4 258:10 262:3 271:9 273:15 <b>background (1)</b> 90:21 <b>Baier (3)</b> 23:11,13 162:18 <b>ballots (5)</b> 88:8 89:1,12 158:4 164:25 <b>Barbara (1)</b> 50:11 <b>barred (1)</b> 224:21 <b>based (20)</b> 40:22 73:23 81:25 102:24 119:7 124:7 126:4 164:10				
<hr/>				
				<b>C</b>
				<b>C (4)</b> 3:1 9:2 290:1,1 <b>CA (1)</b> 229:5 <b>Cabaniss (2)</b> 60:4 64:22 <b>calculating (1)</b> 91:1 <b>call (9)</b> 29:3 68:10 82:7 105:4 193:2 196:14 200:13 231:24



269:1 <b>called (12)</b> 44:22 79:12 184:4,10 221:11 227:11 244:16 268:2 285:20,24,25 286:3 <b>calling (4)</b> 68:20 197:20 231:3 238:9 <b>calls (13)</b> 114:7 134:11 148:13 148:15 150:5,10,16 170:18 175:6 176:1 194:12 259:2 285:7 <b>Campaign (1)</b> 30:17 <b>campaigns (2)</b> 26:8,11 <b>cancel (22)</b> 41:18 45:3,20 51:8 54:1,5,9 119:25 120:8,17,18,23 123:4,21 124:4,12 201:20 203:15 244:16,22 255:24 284:21 <b>canceled (58)</b> 40:22,25 41:8 44:22 45:1,14,16,18 53:16 54:17 55:19 96:5,7 97:19 98:2,18,20 117:3,10,17 130:4 132:11,12 133:4,25 201:23 202:15 203:9,12 204:1 207:22 210:23 229:24 230:17 241:3 246:7 254:25 258:16,19,20 259:12 260:1 261:5 261:18 262:17 263:6 272:13 274:5 274:10,17 275:11 277:14 278:7,10,14 279:9,18,24 <b>cancellation (38)</b> 37:20 38:10 44:2,12 44:20 45:19 53:19 54:11 56:2,25 58:8 58:14,18 60:1,16 61:17 64:1,15 66:18 77:1,4 79:11 80:2 93:17 120:2 200:21 202:23 203:1 208:2 238:12 248:5 255:14 257:2	274:23 276:7,11 281:6 283:9 <b>cancellations (5)</b> 16:1 45:11 59:11 183:18,21 <b>candidate (5)</b> 26:13,15 224:22 226:4,5 <b>candidates (3)</b> 26:22 27:4 226:15 <b>capacity (2)</b> 10:18 18:7 <b>captures (3)</b> 173:21 174:14 177:3 <b>car (1)</b> 10:19 <b>card (2)</b> 250:19 287:24 <b>Carlson (2)</b> 172:10 173:5 <b>Carlson's (2)</b> 171:17 178:1 <b>carries (3)</b> 159:24 160:20,24 <b>carry (2)</b> 161:4 162:5 <b>case (15)</b> 9:11 13:9 16:4,12 134:19 247:21 257:14 283:17,22 283:23,24,25 284:25 290:13 291:2 <b>cases (4)</b> 21:24 22:19 103:9 230:13 <b>cast (5)</b> 88:8 89:1,12 90:7 164:25 <b>casting (1)</b> 158:3 <b>categories (1)</b> 250:8 <b>categorized (4)</b> 207:9 209:24 210:24 212:5 <b>category (1)</b> 207:22 <b>caught (1)</b> 266:4 <b>causes (1)</b> 30:6 <b>caution (1)</b> 205:16 <b>cease (2)</b> 196:6,20	<b>certain (13)</b> 15:14 21:7 22:16,22 27:21,25 92:6 197:13 216:17 233:10,17 250:16 282:15 <b>certainly (3)</b> 132:14 148:2 267:2 <b>certify (3)</b> 289:4 290:6,16 <b>chain (15)</b> 47:7,16 50:5 73:10 129:10 172:5,8 182:6 204:4 205:1,5 205:7 214:11 217:23 220:24 <b>chairs (6)</b> 223:2,18,24,25 224:3 224:12 <b>challenge (1)</b> 215:22 <b>chance (2)</b> 131:25 235:19 <b>change (10)</b> 29:2,4,8 77:20 107:4 107:12 241:11,17 248:14,18 <b>changed (4)</b> 28:6 29:1 211:21 241:12 <b>changes (3)</b> 189:3,4 289:7 <b>chapter (1)</b> 227:10 <b>characterization (2)</b> 134:14 197:8 <b>characterize (2)</b> 31:1 145:6 <b>characterized (1)</b> 210:15 <b>characterizing (1)</b> 102:10 <b>charge (5)</b> 148:6 151:21 162:24 163:3,10 <b>chart (1)</b> 77:14 <b>check (26)</b> 43:14 58:13,25 59:10 59:25 60:7,15,23 61:4,12 62:4,11,18 63:1,9,16,22 64:5 64:12 116:6 152:15 173:21 174:7 177:3 177:15,24 <b>checked (32)</b>	64:16 82:24 95:18 103:6 112:14,17,18 112:21 116:21 125:10 134:7 174:15 177:9 216:2 254:15 261:14 262:4,13,24 263:3,7 263:10 264:12 282:13,17,23 283:4 283:7,8 285:2,22 287:12 <b>checking (6)</b> 61:21 113:21 264:7 264:20 282:8,11 <b>checkmark (3)</b> 59:1 103:7 142:19 <b>Chesterfield (2)</b> 227:2 231:17 <b>chief (1)</b> 268:8 <b>choosing (2)</b> 284:13,15 <b>Chris (4)</b> 213:14 217:9,19 223:16 <b>Christian (10)</b> 3:19 10:7 71:14 137:18 155:16 156:11 165:15 166:3 214:20 229:8 <b>Christopher (1)</b> 54:14 <b>Churchwell (14)</b> 135:11 138:16 149:8 157:10 159:19 160:10 163:5 180:1 189:24 195:23 225:23 229:2 246:2 269:22 <b>circulated (1)</b> 73:4 <b>cite (1)</b> 55:2 <b>cited (1)</b> 85:14 <b>cities (2)</b> 158:12,22 <b>citizen (43)</b> 40:17 41:2,17 42:5 43:8 51:20 52:2 82:25 95:19 97:8 116:22 128:19 129:19,23 131:15 131:22 132:4,18 149:25 191:9 193:7 193:14,19 194:24	244:8 248:16,25 249:9 250:7 254:16 261:15 262:5,14 263:12 281:15,19 282:3,8,18 285:10 285:22 287:13,14 <b>citizens (26)</b> 1:6 9:8 35:14 38:2,15 41:23 78:18 119:23 130:16 131:1 132:1 132:8,13 134:12 191:19,23 247:16 247:22 281:18,23 281:24 282:11 283:13,18 284:1,24 <b>citizenship (81)</b> 15:24 34:13 35:18 37:7,15 42:14 43:19 43:24 50:24 52:4,18 54:23 55:9 56:12 83:6 88:21 89:22 95:25 97:14 98:10 112:13,24 113:4,16 113:21 114:5 117:22 118:6 120:1 120:14,20 123:14 124:8,9 125:4,7,19 126:24 131:10 132:12 134:5,7 158:15 174:3 177:9 194:4,10,13,18 201:18 203:18 204:1 210:23 229:25 230:16 233:19 243:8,10 246:8 247:13 248:4 248:14,23 249:7 258:18,21 259:10 259:25 261:4 264:8 264:21 275:1 276:18 278:16 279:12,19 281:9 282:24 283:22 284:8,23 <b>city (4)</b> 227:18,20,22 228:2 <b>Civil (3)</b> 1:7 2:12 21:15 <b>claim (7)</b> 129:25 132:3 144:17 144:18 193:18 194:4,23 <b>claimed (1)</b> 129:22 <b>claiming (4)</b> 95:24 97:13 98:9
---	--	--	--	---

<p>233:17  <b>claims (1)</b>  158:15  <b>Clara (2)</b>  14:12,20  <b>clarify (1)</b>  16:10  <b>clean (1)</b>  188:22  <b>clear (4)</b>  27:15 199:1,3 226:16  <b>clerk (2)</b>  215:12 216:6  <b>clerks (1)</b>  216:10  <b>client (2)</b>  21:18 268:13  <b>clients (12)</b>  18:15 20:13,14,17,24  20:25 21:1,7,11,22  27:17 266:14  <b>close (3)</b>  196:20 199:2 209:7  <b>closed (1)</b>  215:23  <b>Coalition (2)</b>  196:15 270:5  <b>code (2)</b>  54:23 55:2  <b>collect (3)</b>  219:15,25 221:7  <b>collected (2)</b>  109:1 139:12  <b>collecting (2)</b>  112:10 139:9  <b>collection (1)</b>  220:9  <b>collective (1)</b>  24:11  <b>Columbia (3)</b>  2:16 290:3,5  <b>column (5)</b>  44:22 244:15,21  274:2 276:3  <b>come (9)</b>  35:23 74:20 76:25  91:14 131:20 140:2  208:23 209:1  231:18  <b>comes (1)</b>  91:12  <b>coming (3)</b>  21:17 169:8 217:16  <b>comment (7)</b>  25:14 229:6 230:8,8  230:25 231:8,13</p>	<p><b>commenting (1)</b>  212:9  <b>comments (3)</b>  199:24 229:5 233:7  <b>commission (5)</b>  23:24 136:18 137:20  290:24 291:25  <b>commissioner (5)</b>  188:7 256:24 257:8  268:6 277:24  <b>committed (2)</b>  80:12 197:22  <b>committee (16)</b>  24:1 91:4,6 162:16  213:21 215:1,7  218:12,14,21  232:16,19,23 233:5  233:9 234:13  <b>committees (1)</b>  24:4  <b>committeewoman (3)</b>  233:16,21 234:10  <b>commonly (2)</b>  33:20 250:18  <b>commonwealth (22)</b>  147:5 148:10 149:12  150:6,11,16,19  151:5 207:8 209:6  209:11,14,18,22  234:19 250:9 251:1  255:13 262:22  271:23 287:10,15  <b>communication (2)</b>  212:15 259:1  <b>communications (11)</b>  150:20 159:18 160:15  163:6 198:4,9  213:23 215:12  217:17,19 222:12  <b>compiled (5)</b>  40:16 281:13,17,22  283:15  <b>compiles (1)</b>  40:18  <b>complained (2)</b>  193:7,14  <b>complaint (11)</b>  205:10 212:6,8,12  231:11 265:20  266:3,12 269:9  270:10,15  <b>complaints (3)</b>  205:2,6,8  <b>complete (10)</b>  52:3 75:20 120:15,20  147:18 148:1</p>	<p>258:17 259:9,24  261:3  <b>Completed (1)</b>  82:19  <b>completely (2)</b>  43:1 201:6  <b>completing (1)</b>  249:6  <b>completion (1)</b>  290:13  <b>complies (18)</b>  59:3,12 60:2,8,17,24  61:5,13,22 62:5,12  62:19 63:2,10,17,23  64:6,13  <b>complying (1)</b>  272:11  <b>computer (1)</b>  170:7  <b>concern (1)</b>  158:12  <b>concerned (4)</b>  197:9,10,19 231:12  <b>concerning (2)</b>  33:25 276:17  <b>concerns (2)</b>  214:12 234:10  <b>conclude (2)</b>  259:15 260:20  <b>conclusion (1)</b>  263:23  <b>conclusory (1)</b>  25:10  <b>conduct (3)</b>  108:8 161:23,25  <b>conducted (1)</b>  34:1  <b>confident (1)</b>  104:24  <b>confidentially (2)</b>  109:2,17  <b>confirm (3)</b>  56:19 57:23 247:13  <b>confirmation (1)</b>  243:8  <b>confirms (1)</b>  246:9  <b>conflicting (2)</b>  284:22 285:1  <b>confused (2)</b>  12:3 67:16  <b>Congratulations (1)</b>  182:10  <b>Congress (7)</b>  158:8 159:3,4,4,10,17  268:23</p>	<p><b>congressional (7)</b>  157:25 223:1,18,24  224:1,11 268:18  <b>conjunction (1)</b>  87:20  <b>connection (3)</b>  266:14 268:19,23  <b>conservative (4)</b>  30:6,18,23 31:3  <b>consider (1)</b>  30:22  <b>considered (1)</b>  194:3  <b>considers (1)</b>  221:17  <b>constitute (1)</b>  249:7  <b>constitutional (3)</b>  25:3 30:4 268:14  <b>consults (1)</b>  170:6  <b>Cont (4)</b>  5:1 6:1 7:1 8:1  <b>contact (9)</b>  32:8 83:11,14,18,20  96:9,13 98:22 99:1  <b>contacted (1)</b>  270:6  <b>contacting (2)</b>  83:24 270:18  <b>contain (1)</b>  251:25  <b>contained (9)</b>  81:9 86:3 103:11  112:4 115:2 116:2  125:25 139:22  142:11  <b>containing (2)</b>  237:19 276:23  <b>contains (4)</b>  217:23 229:15 238:17  247:14  <b>contemplate (1)</b>  52:9  <b>content (3)</b>  235:18,21 287:4  <b>contents (3)</b>  105:2 198:4 250:3  <b>continued (4)</b>  258:19 259:11 260:1  261:5  <b>continues (6)</b>  52:1 159:22 164:24  166:19 175:10  241:2  <b>continuing (2)</b></p>	<p>158:19 230:20  <b>contractor (1)</b>  170:9  <b>contrary (3)</b>  43:24 202:1 277:18  <b>contributed (1)</b>  230:21  <b>control (1)</b>  25:5  <b>convenient (1)</b>  56:17  <b>conversation (10)</b>  48:5,9,18 50:6 149:23  183:9,13 184:18  205:21 222:9  <b>conversations (5)</b>  17:4 135:23 138:11  138:15 198:21  <b>cooperate (1)</b>  158:13  <b>coordinate (1)</b>  220:7  <b>coordinated (2)</b>  219:24 220:9  <b>coordinates (1)</b>  27:20  <b>coordinating (2)</b>  22:16 27:24  <b>coordination (1)</b>  76:7  <b>copies (12)</b>  119:19,24 146:25  174:1,10,13 194:1  203:15,17 204:2  223:2 247:10  <b>copy (24)</b>  56:24 57:23,23 75:10  85:13,17 95:6  102:15 144:7  145:25 147:17  190:24 223:17  228:21 232:15  234:24 235:1  237:12 251:13,16  257:19 258:2,5  287:23  <b>copying (4)</b>  47:17 135:11 166:3  246:2  <b>corner (4)</b>  55:12 256:4,14  261:11  <b>corporation (1)</b>  25:2  <b>correct (479)</b>  12:25 16:6,14 17:5,18</p>
--	--	---	---	---

19:3 22:2 23:18 24:19,20 26:16,19 26:22 27:5,8 29:12 30:14 32:1,4,10,11 32:18 33:6,9 34:3,8 34:9,14,19,20 36:1 36:17,18 37:1,8,9 37:12,23 39:2,9 40:24 42:9,25 43:9 43:17,20,21 44:9,13 44:14,17,19,21,23 45:5,6,8 47:6,12,14 48:22 49:14,17 50:12,16,21,25 51:1 51:4,5,16,17,22 52:10,19,21,22,25 53:3,11,12,16,17,20 54:2,6,11,12,15,18 54:24 55:20 56:5,12 56:25 57:4,6,10,14 58:5,23 59:5,8,23 60:13 61:2,10,19 62:2,3,9,17,24,25 63:7,8,21 64:3,4,10 64:11,16,19 66:7,11 66:16,21 68:4,5 69:12,13 70:3,6,10 71:5,6,10,12 72:12 72:13 74:17,18 75:23,24 76:4,5,9 76:11,18 77:9,25 78:3,10,12,23,24 79:1,2,4,7,14 80:4,7 80:18,19 81:3,4,7 81:13,14,18,22,22 82:20,21,22,23 83:1 83:2,6 84:20,24,25 85:23 86:10 87:12 87:15,16,18,20,21 88:15 89:7,18 91:23 91:24 92:9,11,21 93:2,13 94:19,22 95:20,25 96:5,16,19 96:22 97:14,16,19 98:10,13,18 99:4,14 99:24 100:1,2,23 101:1 102:4,8,21,25 103:3 104:6,8 105:5 105:12 106:4 107:6 107:14 109:2,5,11 109:18,22 110:10 111:24 112:2,14,15 112:17,22,25 113:1 113:4,5,22 114:5,8 114:13,16,21 115:10 116:23	117:3,10,23 118:6 119:2,13,20 120:2 120:10,15 121:1,16 122:8 123:22 124:7 124:19 125:1,2,4,8 125:22 126:2,11,16 126:20 129:7,19 130:21 131:1,2,12 132:2 133:5,25 134:5 136:6 139:10 139:19,23 141:9 142:1,13 143:2,16 143:21 144:4,14 145:10,14,19 146:11,17,18,22 147:1,9,12 148:4 149:5,8,9 151:6 152:7 153:4,11 155:14 157:16,19 163:12 165:7 166:8 173:2 174:10 176:24 177:15,16 177:22 178:2 179:20 180:19 182:23 184:11 186:20 187:8,25 188:3,17 189:9 190:1,7,13,14,19 192:13 193:3,9,11 195:3,9 196:21,25 197:25 198:10,24 199:4,13 200:8,22 201:3,5,23 202:24 203:2,5,15,18,19,23 204:8,11 205:9 206:5 208:2,3,7,12 208:17,18,21,24,25 209:2,3,4,12 210:3 210:17 211:18 219:2,17,22 220:2 220:14 221:5 225:4 228:9,10,24 229:3 229:18,20 232:1 234:7,8 236:20 237:14 238:1,5,6,9 238:14 239:9,10 240:8 242:7,14,22 242:24 244:8,17,23 245:13,16 246:3 254:20 262:18,25 269:25 271:15,16 271:19 272:8 273:16 275:25 276:7 277:12,15 278:11,18 279:1,2,5 279:6,10,13,25	280:6,10,15,16,25 281:6,9,20,25 282:5 282:19,24 283:2,13 283:23 284:2,24 285:5,10,15,23 286:1,4 288:3 289:5 <b>Correction (1)</b> 289:13 <b>corrections (2)</b> 289:7,12 <b>correctly (6)</b> 93:20 153:2 186:4 230:25 240:15 246:13 <b>correspondence (21)</b> 24:18 119:20 126:23 137:15 201:11,13 201:15,17 203:13 203:20 213:4 237:21 239:12 253:12 275:13 276:17,25 277:6,11 278:25 279:12 <b>Cortes (40)</b> 15:21 189:13,23,25 190:17,19 234:17 237:1,11,14 240:7 241:7,21 242:13,16 242:24 243:1 245:12,21 246:1,5,6 256:25 257:8,22 258:14 259:1,22 260:18 261:1 275:9 276:14 277:24 278:2,15 279:14 280:1 281:13 286:16,20 <b>COUNCIL (1)</b> 1:7 <b>counsel (23)</b> 9:21,23 11:13,24 14:16 17:23 18:3,7 22:1,5,19 38:17 97:24 115:21 117:13 192:15,16 202:11 235:4 246:22 268:8 270:2 286:10 <b>count (3)</b> 46:1 66:3,5 <b>counties (9)</b> 76:19 77:15 152:22 153:10,13 158:13 221:8 246:7 253:13 <b>county (73)</b> 31:24 32:21 34:8,22	35:7 36:24 38:2,9 38:15 39:9,12,16,20 39:21 40:6,11,20 41:3,22 44:6,13 45:24 46:7 47:10 48:7 49:6 50:7,15 56:4 57:4 77:5,8 78:6,14,16 79:7,9 80:3,6,13 81:16 82:8 84:5,7,8 93:12 100:21,22 119:11 119:19 121:15 124:6 130:20 133:11 153:10 203:14,23 209:18 209:20 231:17,17 231:18 243:3 244:1 247:8 255:3,15 271:15 272:11,21 272:22 280:3 284:18 <b>couple (6)</b> 44:6 60:3,25 62:13 63:11 275:24 <b>court (44)</b> 1:1 9:10,19 21:21 28:12 31:15 46:23 49:22 69:21 70:21 72:1,21 75:5 85:7 118:14 122:13 128:25 134:24 136:25 143:7 148:23 150:24 154:16 157:3 163:23 165:19 167:18 171:23 181:21 187:18 195:14 204:22 206:12 212:24 214:5 220:19 225:12 228:14 230:22 232:7 237:6 239:24 242:3 265:25 <b>cover (9)</b> 55:22 75:25 86:23 87:4,10 144:3 158:23 275:9 276:13 <b>Cover-up (2)</b> 75:22 86:25 <b>covered (1)</b> 93:2 <b>crazy (5)</b> 179:7,15,18,22 180:7 <b>create (4)</b>	182:14 183:2 237:18 276:23 <b>created (1)</b> 69:1 <b>creating (1)</b> 15:25 <b>crime (2)</b> 160:25 162:5 <b>crimes (1)</b> 197:22 <b>cross (1)</b> 183:9 <b>crossed (3)</b> 185:3,8 229:22 <b>crossing (2)</b> 185:7 187:5 <b>currency (1)</b> 34:2 <b>current (4)</b> 17:19 160:19 239:4 279:3 <b>currently (4)</b> 29:11 47:23 229:15 250:17 <b>custom (9)</b> 92:1 236:25 237:11 238:17 239:3 240:6 241:21 242:13 280:16 <b>customized (2)</b> 237:18 276:23 <b>cycles (1)</b> 88:22 <hr/> <b>D</b> <hr/> <b>d (5)</b> 5:1 6:1 7:1 8:1 9:2 <b>D.C (2)</b> 2:12 9:14 <b>daily (1)</b> 19:11 <b>data (9)</b> 18:18 108:25 189:4 216:10 217:10 228:6 240:11 241:10 286:7 <b>database (3)</b> 79:19 249:25 250:4 <b>date (33)</b> 28:9 32:23 37:21 44:20 66:9,14 92:14 120:12 123:23 124:3 193:11,13 203:7 206:21 239:12,13 251:23 252:5 254:20 256:2
--	---	--	---	---

256:9,10,14,17 258:1 270:22 271:17,20 273:7,18 277:5,9 291:3 <b>dated (21)</b> 50:17,19 71:4 72:11 73:9 76:10 87:17 118:24 120:11 129:10 149:4 157:15 164:4 166:10 172:16 182:6 202:21 220:25 253:25 257:23 273:13 <b>dates (2)</b> 124:13 189:21 <b>dating (2)</b> 37:20 89:1 <b>David (7)</b> 21:14 47:19,22 48:11 48:14,16,21 <b>day (16)</b> 13:4 47:18 121:12 152:2 173:1 180:19 180:24 181:6,6 196:9 204:9 242:21 286:18 289:17 290:21 291:23 <b>days (9)</b> 53:10 54:4,8,23 74:12 74:12 120:25 143:20 146:21 <b>Daytime (1)</b> 82:22 <b>DC (3)</b> 1:17 3:6,14 <b>dead (3)</b> 135:16 136:4 274:18 <b>Dear (1)</b> 149:21 <b>Deceased (1)</b> 45:14 <b>decide (1)</b> 110:19 <b>decided (3)</b> 68:10 109:4,10 <b>decision (1)</b> 104:23 <b>declaration (4)</b> 39:25 40:12,22 272:14 <b>declare (2)</b> 39:12,16 <b>declared (34)</b> 37:20 38:10,23,24 39:6,8,17,22 40:5	44:12,24 45:25 98:3 130:5 207:11,22 210:1,16 211:1,1,7 244:12,22 254:25 255:15 256:1 257:2 261:18 262:17 280:9,25 281:3 285:12 286:21 <b>declaring (1)</b> 41:16 <b>declining (1)</b> 278:3 <b>dedicate (1)</b> 158:2 <b>defeat (4)</b> 26:13,15,22 27:4 <b>defects (2)</b> 229:25 230:16 <b>defend (1)</b> 198:22 <b>defendants (3)</b> 1:11 3:11 268:4 <b>defense (1)</b> 31:2 <b>defies (1)</b> 230:13 <b>define (5)</b> 16:15,16,18 19:9 27:10 <b>definition (1)</b> 286:21 <b>degree (1)</b> 179:2 <b>degrees (1)</b> 163:1 <b>Democratic (2)</b> 224:16,19 <b>Department (34)</b> 34:18 40:19 42:2,3 55:6 92:2 119:5,15 126:20 127:5,10,13 139:18 187:25 188:8 201:2,4 208:5 208:10,24 209:13 236:17,18 237:17 248:24 250:1 255:14 271:22 272:2,4,12 276:22 277:25 284:17 <b>depend (1)</b> 22:15 <b>depended (1)</b> 23:14 <b>depending (1)</b> 216:17 <b>depends (3)</b>	16:15 108:19 162:1 <b>Deponent (3)</b> 289:1 291:4,21 <b>deposed (3)</b> 10:14 11:12 14:7 <b>deposition (34)</b> 1:16 2:9 9:7,13 10:8 12:15,23 13:19 14:12,20,23 15:15 15:17 16:5,13,20 17:3 135:1 137:2 245:6 247:5 253:24 255:7 260:5 265:2 266:17 271:10 273:12 286:14 288:7,9 290:8,10 291:3 <b>deputy (1)</b> 147:14 <b>descendant (1)</b> 190:22 <b>describe (10)</b> 18:6 20:10 24:21,22 24:24,25 25:1,6,17 30:1 <b>described (3)</b> 36:13 43:23 44:3 <b>describing (1)</b> 213:5 <b>descriptions (1)</b> 51:3 <b>designation (1)</b> 130:5 <b>designations (1)</b> 66:18 <b>desist (2)</b> 196:6,20 <b>detail (2)</b> 179:8,12 <b>deter (4)</b> 107:25 108:8 160:25 161:24 <b>determination (5)</b> 40:6,9 244:7 284:19 287:17 <b>determine (3)</b> 18:14 192:5 287:11 <b>determined (9)</b> 34:22 35:6,14 38:1,14 78:17 130:22 243:6 243:16 <b>deterred (1)</b> 161:10 <b>deterrent (5)</b> 108:11 159:23 161:5 161:19 162:6	<b>develop (1)</b> 253:16 <b>die (1)</b> 45:15 <b>died (1)</b> 279:19 <b>difference (4)</b> 93:3,5,7 239:3 <b>differences (1)</b> 93:1 <b>different (13)</b> 85:22 93:10 96:10 98:23 121:20 132:6 188:2 236:19,21 240:16 241:15 249:23 257:25 <b>dig (3)</b> 131:15 179:19,24 <b>direct (4)</b> 32:12 57:21 76:12 192:17 <b>directed (5)</b> 27:16 54:14 120:9 158:1 274:24 <b>directing (3)</b> 79:5,8 192:17 <b>directive (1)</b> 272:12 <b>directly (6)</b> 107:5,13,16 201:7 234:3 261:20 <b>director (3)</b> 50:14 159:19 163:6 <b>dirt (5)</b> 46:14 47:19 48:3,21 49:3 <b>disagree (2)</b> 109:7 134:13 <b>disclaimer (1)</b> 211:20 <b>disclosed (4)</b> 207:7 209:6,21 229:16 <b>discoverable (1)</b> 271:6 <b>discovered (1)</b> 164:13 <b>discovery (3)</b> 75:22 86:25 207:6 <b>discretionary (1)</b> 104:23 <b>discuss (8)</b> 14:4,10,14 23:14 128:7 129:8 156:17 156:23 <b>discussed (17)</b>	14:11 15:20 23:16 53:13 101:11,13,20 111:22 141:11,14 141:18 142:9 143:25 153:8 187:4 195:5 217:24 <b>discussing (5)</b> 111:10 129:6 150:17 151:4 183:16 <b>discussion (4)</b> 101:2,5 111:18 205:7 <b>discussions (7)</b> 100:7,13,15 110:22 111:4,8 217:9 <b>dismiss (1)</b> 230:21 <b>dispute (2)</b> 129:24 231:10 <b>disqualification (4)</b> 215:17,18 216:23 217:21 <b>disqualified (4)</b> 216:11,13,18 217:4 <b>disqualify (1)</b> 216:20 <b>disseminate (2)</b> 163:12,15 <b>distinction (2)</b> 28:21,25 <b>distributed (1)</b> 110:3 <b>district (16)</b> 1:1,2 2:16 9:10,11 147:9,12 223:1,18 223:24 224:1,3,12 257:13 290:3,5 <b>DIVISION (1)</b> 1:3 <b>DMV (17)</b> 15:24 40:17,18 43:25 51:12,19 52:10,19 52:21,23 247:11,17 247:20 282:23 283:9 287:14,20 <b>docket (2)</b> 21:25 257:14 <b>document (118)</b> 13:13 28:13,20 31:16 31:17 32:14,15 34:25 38:4 46:24 47:2 48:15 49:23 50:2 53:25 57:1,22 58:6 59:2 67:12 69:22 70:8,23 72:2 72:5,22,25 75:7 84:18 85:12 95:23
---	---	---	---	--

96:1,3,17 97:13,15 97:17 98:2,4,9,11 98:15 110:8 118:15 118:18 121:9 122:14,17 129:4 134:25 135:6 137:1 137:4,6 143:12 149:2 150:4,25 151:8 154:19 157:4 157:6 162:10 163:25 165:21 167:19,22,23 171:24 180:17 181:22 182:1 185:13 187:19,20 193:5 195:15,18 206:2,13,14 213:6 214:6,9 218:23 220:20,22 222:23 223:9,13 225:13,16 228:15,19 232:3,12 237:7,9 239:25 240:3 242:4,10 245:1,5,8,11 246:19 252:19 255:2,11 257:12 261:9,13 273:11 274:9 275:6 275:20 277:17 <b>documentation (2)</b> 250:17,24 <b>documented (3)</b> 103:20 104:1 158:24 <b>documents (21)</b> 13:5,7,11 34:11 51:3 51:6 96:10 98:23 110:10 120:3 125:17,20,21 134:6 184:13 192:21 272:20 279:23 287:16,21 288:1 <b>doing (8)</b> 40:14 59:14 108:1,20 108:20 162:1 167:10 214:21 <b>DOJ (1)</b> 159:18 <b>doubt (3)</b> 115:1,18 194:23 <b>Douglas (1)</b> 64:16 <b>dozen (1)</b> 179:6 <b>draft (27)</b> 24:12 69:11,15,15 70:5,5,7 71:2,15 72:7,9 73:3 74:7	144:12,16 149:10 149:18,19,21 157:23 225:18,21 225:23 228:21,23 229:18 251:25 <b>drafted (3)</b> 24:10 32:17 35:25 <b>drafting (7)</b> 22:23 24:11 33:8 36:3 70:12 252:6,12 <b>drafts (3)</b> 70:15 71:20,22 <b>draw (1)</b> 189:11 <b>driver's (3)</b> 250:8,25 287:21 <b>Drudge (5)</b> 182:16,18 183:6 185:1 187:7 <b>due (3)</b> 258:16 259:7 279:24 <b>dug (1)</b> 179:22 <b>duly (2)</b> 10:3 290:9 <b>Dunkley (3)</b> 61:14,18 65:7 <b>duty (6)</b> 215:13 216:12,14,23 217:1,4 <hr/> <b>E</b> <hr/> <b>E (6)</b> 3:1,1 9:2,2 290:1,1 <b>e-mail (190)</b> 4:15,17,19,21,23,25 5:4,6,12,14,16,18 5:20,22,24 6:4,6,8 6:10,12,14,16,18,20 6:22,24 7:6,8,10,12 7:14,16,18,20,22,24 8:4 19:15,18 31:22 31:23,25 32:2,6,8 32:13 47:5,7,10 48:8,11,14 50:5,7,9 50:11,11 51:2 55:22 69:25 71:1,9 72:9 73:1,9,10,11,23 118:21,25 119:2,21 120:4 121:10,17 122:19 123:10 125:5 126:22 129:6 129:10 131:13 134:22 135:8,25 137:7,7 138:25 139:17 143:14	144:6 145:13 146:16 149:4,6,11 149:15,17,18,19,21 150:9,17 151:11,12 151:14 152:10 154:21 155:4,8,10 157:9,15 164:3,4 165:15 166:2,4,4,10 167:24 172:5,8,9 175:10 176:5,5,8,24 180:5 182:4,6,9 183:7 188:3,6,7,18 188:19 189:13,23 190:18 195:22 198:25 199:6 202:21 204:3 205:1 205:5,7,12 212:25 214:11,16,17 218:2 220:24,25 221:14 225:20 228:20 232:14 237:10,16 240:5,6 241:1 242:13,15 245:11 253:7,11 257:5,7,21 258:1,3,14 259:14 260:18 265:5,15,20 269:21 273:15,18 275:9 276:13 286:18,23 <b>e-mailed (4)</b> 154:25 225:22 228:22 242:16 <b>e-mails (9)</b> 121:20 148:16,18 204:4 237:14 271:14,17,20 272:17 <b>earlier (18)</b> 49:12 51:11 68:1 77:2 78:3 80:7 105:24 111:22 123:25 141:25 153:8 165:14 187:23 195:5 218:24 224:11 280:5 282:23 <b>early (2)</b> 151:22 166:15 <b>easier (1)</b> 142:25 <b>easily (1)</b> 170:20 <b>Eastern (6)</b> 1:2 9:11 147:9 174:19 178:7 257:13 <b>easy (7)</b>	101:6,9 103:12 142:12 166:25 264:7,20 <b>EB (1)</b> 215:13 <b>eclipse (2)</b> 187:11 188:16 <b>Edgardo (5)</b> 15:21 234:17 257:22 277:24 278:2 <b>edit (2)</b> 230:3,7 <b>edited (1)</b> 157:19 <b>edits (2)</b> 228:23 229:14 <b>educate (1)</b> 227:16 <b>education (3)</b> 18:4 19:21,23 <b>EDVA (2)</b> 152:11 156:13 <b>effect (4)</b> 108:11 134:23 162:7 226:12 <b>effective (1)</b> 183:5 <b>effectively (1)</b> 99:21 <b>effort (11)</b> 24:11 131:21 162:24 163:2,3,11,14 218:25 219:15 221:6 226:25 <b>efforts (5)</b> 159:17 162:11 170:25 219:24 253:13 <b>eight (5)</b> 74:12 76:19 77:15 88:2 164:20 <b>either (11)</b> 39:23 40:10,22 56:4 114:22 151:5 154:12 208:20 210:3 274:5 287:4 <b>either/or (1)</b> 109:19 <b>El (1)</b> 160:12 <b>ELECT (1)</b> 201:1 <b>ELECT's (1)</b> 200:25 <b>election (24)</b> 18:18,21 24:18 25:2 26:12,15,21 27:4	29:9 31:24 40:21 41:4 44:1 45:4 52:8 81:10 83:12 88:22 109:1 138:21 201:17 215:2 219:25 222:14 <b>elections (49)</b> 18:21 23:24 25:5 32:22 34:19 36:24 40:20 42:2 50:14 55:6 74:24 89:1 92:2 119:5,15 126:20 127:6,10,13 131:1 139:18 162:16 165:1 187:25 188:8 201:2 201:4 208:6,10,24 209:13 213:21 226:3,14,17,21 232:16 236:17,18 237:18 248:24 255:14 271:22 272:2,4,12 276:22 277:25 284:17 <b>electoral (1)</b> 108:3 <b>eligible (3)</b> 34:3 43:18 51:22 <b>Eliud (4)</b> 94:1 255:21 259:15 285:25 <b>embargo (1)</b> 172:18 <b>emphasis (1)</b> 282:18 <b>employee (1)</b> 170:8 <b>employees (3)</b> 29:18 182:5 268:7 <b>employer (1)</b> 17:19 <b>enabling (1)</b> 181:8 <b>enclosed (5)</b> 52:4 96:22 120:21 144:18 289:13 <b>ended (2)</b> 83:3 251:15 <b>endorse (2)</b> 226:3,14 <b>endorsement (1)</b> 225:1 <b>endorsing (1)</b> 224:21 <b>enforcement (15)</b> 101:7,10 102:6 103:7
---	--	---	---	---



103:18 104:3,5,19 106:20 107:23 108:10 142:5 156:17,22 162:4 <b>engage (1)</b> 29:25 <b>engaged (2)</b> 162:20 165:6 <b>engaging (5)</b> 108:8 145:3 161:23 161:25 170:24 <b>ensuring (1)</b> 34:2 <b>entire (1)</b> 202:16 <b>entirely (2)</b> 75:19 170:10 <b>entities (4)</b> 91:5,9 267:16,23 <b>entitled (2)</b> 38:19 143:15 <b>entity (3)</b> 267:10,15,23 <b>entity's (1)</b> 266:21 <b>entries (1)</b> 274:7 <b>entrusted (1)</b> 107:24 <b>entry (1)</b> 190:25 <b>envelope (2)</b> 52:5 120:21 <b>Erickson (6)</b> 128:15 129:7,19 130:9 132:4,15 <b>err (1)</b> 205:16 <b>ERRATA (1)</b> 291:1 <b>erroneously (2)</b> 207:7 209:6 <b>error (5)</b> 126:19 200:25 201:4 201:7,10 <b>especially (2)</b> 37:5 199:16 <b>ESQ (3)</b> 3:7,8,15 <b>essentially (1)</b> 244:18 <b>established (2)</b> 177:12 187:2 <b>et (4)</b> 1:7,10 9:8,9 <b>Evelyn (1)</b>	63:11 <b>eventually (3)</b> 17:6,7 252:1 <b>evidence (13)</b> 83:5 98:5 105:22 108:2 117:13 183:25 201:25 202:1,10,14,18 277:18,21 <b>exact (4)</b> 28:9 112:6 204:16 219:13 <b>exactly (2)</b> 14:17 243:16 <b>Examination (9)</b> 4:1,4,5,6,7 10:9 247:1 275:4 287:8 <b>examine (1)</b> 227:25 <b>examined (1)</b> 10:4 <b>example (10)</b> 20:3,9 100:22,23 133:11 153:6 185:1 186:11 199:10 250:17 <b>examples (3)</b> 103:20,25 169:4 <b>exception (1)</b> 289:6 <b>exchange (1)</b> 71:8 <b>excluded (1)</b> 206:7 <b>exclusive (1)</b> 200:4 <b>exclusively (1)</b> 165:13 <b>excuse (4)</b> 139:16 157:21 239:18 286:10 <b>excused (1)</b> 216:25 <b>exercise (1)</b> 103:8 <b>exhibit (275)</b> 4:10,11,12,14,16,18 4:20,22,24 5:1,3,5,7 5:9,11,13,15,17,19 5:21,23 6:1,3,5,7,9 6:11,13,15,17,19,21 6:23 7:1,3,5,7,9,11 7:13,15,17,19,21,23 8:3 28:10,13 31:12 31:16 46:17,24 49:19,23 57:17,24	58:1,17 67:17,22,23 69:18,22 70:18,21 71:23 72:2,14,22 74:6 75:2,6 78:2 79:3,6,22,24 80:18 80:20 82:4,12,13 83:21,25 85:4,8,11 85:23 86:2,9,12,13 86:15,18,21 91:23 92:11,13,17,19,20 93:12,23,24 94:25 95:3 96:22 97:2 98:16 99:7,10 102:13,15,16,17,18 102:19 104:25 112:1,4 114:1,2 116:14 117:1,9 118:11,15 119:1 121:3,6 122:7,10,14 123:25 124:1,18,22 125:13,22,24,25 127:4,14 128:22 129:1 135:1 137:2 138:16 139:17,23 139:25 143:4,8 144:5 146:11,13,14 148:20,24,24 150:21,25 154:13 154:17 155:1 156:25 157:4 163:20,24 165:17 165:21 167:16,20 171:20,24 181:18 181:22 187:15,19 195:2,11,15 199:7 199:12,18 200:7,13 200:20,22 203:1,5 203:23 204:15,19 204:23 205:17 206:4,6,9,13,25 207:6,25 208:14,16 210:14 211:18 212:21,25 214:2,6 217:22 220:16,20 223:5,9 225:9,13 228:11,15 232:4,8 237:3,7 239:21,25 241:25 242:4,19 245:6 247:4,6 251:12,15,19,23,25 252:5,11,15,18,19 253:3,6,23 254:6,7 254:8,9 255:8,9 257:18 258:13 259:17 260:5 261:8 261:23 263:18	264:1 265:1,3,4 271:10,12,12,13 273:5,6,12,25 274:1 274:3 275:7,25 286:14 <b>exhibits (24)</b> 8:1,6 72:17 75:19 78:3 85:14 99:3,16 99:18,20,23 100:12 101:8 102:3 133:3 133:23 134:4 198:18 206:18 210:10 212:19 255:7 270:19 271:14 <b>exist (2)</b> 174:19 178:7 <b>existed (1)</b> 142:7 <b>existing (1)</b> 145:10 <b>expect (1)</b> 186:16 <b>expectation (1)</b> 186:7 <b>expected (3)</b> 185:17 186:2 216:16 <b>experience (1)</b> 269:7 <b>expires (2)</b> 290:24 291:25 <b>explain (4)</b> 15:4 20:20 179:8,11 <b>explained (2)</b> 126:22 221:18 <b>explains (1)</b> 33:23 <b>explanation (3)</b> 230:14 259:22 261:1 <b>explicitly (1)</b> 230:15 <b>exploring (2)</b> 36:8 145:11 <b>expressed (1)</b> 205:22 <b>expression (1)</b> 136:4 <b>expressions (1)</b> 49:7 <b>extend (1)</b> 16:19 <b>extent (7)</b> 18:9 20:16 21:6,10 36:8 145:8,12 <b>extrapolated (2)</b> 186:11,15	<b>F</b> <b>F (1)</b> 290:1 <b>F/U (1)</b> 221:11 <b>face (1)</b> 106:8 <b>Facebook (3)</b> 169:12,13 171:12 <b>fact (26)</b> 14:7 38:17 41:17 92:5 117:15 132:1,24 136:15 138:15 145:18 197:19 201:25 202:13 235:12 244:11 248:14,22,25 249:5 249:9 260:20 263:10 264:18 265:24 270:9 284:24 <b>facts (5)</b> 117:12 183:24 201:25 202:10,18 <b>factual (1)</b> 202:13 <b>failed (6)</b> 54:21 55:7 258:17 259:9,24 261:3 <b>failure (1)</b> 279:18 <b>fair (8)</b> 20:19 27:1 108:6 149:16 191:16 226:6 233:25 241:13 <b>Fairfax (2)</b> 231:17 255:15 <b>faith (1)</b> 117:14 <b>falls (1)</b> 250:7 <b>false (3)</b> 158:15 191:3,8 <b>familiar (10)</b> 43:1 137:14 159:7,12 160:7,17 198:7,8,11 212:16 <b>far (6)</b> 71:16 123:10 169:3 249:5 283:14 287:15 <b>father (1)</b> 129:21 <b>fault (4)</b>
---	---	--	---	--

126:19 127:5 199:1 199:3 <b>favor (1)</b> 227:5 <b>feature (1)</b> 169:23 <b>federal (13)</b> 2:12 18:20 25:4 103:8 107:23 119:8 158:2 158:14 189:3 249:14 251:5 265:25 290:13 <b>feel (1)</b> 92:14 <b>felonies (1)</b> 80:12 <b>felony (6)</b> 88:10 165:2 277:14 278:11,14,17 <b>felt (1)</b> 196:9 <b>field (2)</b> 239:4,9 <b>fields (7)</b> 238:3,7,8 239:11 277:5,8,9 <b>figured (1)</b> 186:11 <b>file (1)</b> 42:24 <b>filed (6)</b> 212:8 227:8 228:9 257:13 265:25 266:5 <b>files (1)</b> 121:15 <b>filings (1)</b> 21:9 <b>fill (2)</b> 42:24 43:6 <b>final (3)</b> 73:3 166:14 231:23 <b>finalization (1)</b> 24:14 <b>finally (2)</b> 122:22 190:4 <b>finance (1)</b> 30:17 <b>find (12)</b> 57:20 145:4 179:1,7 185:17 186:2,16 254:1,2,3 255:16 273:14 <b>findings (9)</b> 23:14,16 76:16 87:23 89:20 94:9,19	102:25 172:22 <b>fine (1)</b> 43:16 <b>finish (1)</b> 11:21 <b>Firm (2)</b> 30:13,15 <b>first (35)</b> 10:3 11:17 24:12 30:17,22 31:2,25 34:10,15 58:19 69:11,15,25 70:5 79:10 84:23 86:1 88:1 119:1 137:7 143:14 144:16 155:4,8 164:3 188:6 205:12 218:1 219:16 238:20 239:16 247:7,21 253:6 276:21 <b>Fisher (3)</b> 64:7,10 65:25 <b>five (3)</b> 80:23 236:8 269:23 <b>fix (1)</b> 176:18 <b>flagged (4)</b> 116:12,17 246:11 283:5 <b>flip (10)</b> 36:19 58:7,16 59:4,15 75:15 80:20 114:24 115:20 229:10 <b>flipping (1)</b> 229:4 <b>Flom (2)</b> 2:11 3:4 <b>Focht (11)</b> 116:18,20 117:21 120:9,19 121:24 122:5 123:14 124:16 125:19 208:19 <b>Focht's (3)</b> 117:8 127:3,13 <b>focus (4)</b> 29:2,4,7,8 <b>focused (1)</b> 30:18 <b>focuses (1)</b> 25:2 <b>FOIA (2)</b> 216:6,9 <b>FOIA'd (2)</b> 215:11,16 <b>FOLEY (1)</b>	3:12 <b>folks (4)</b> 32:10 47:11,18 218:8 <b>follow (3)</b> 155:13 221:11 233:20 <b>follow-up (4)</b> 148:13,16 222:8 235:16 <b>followed (3)</b> 71:20 84:19 168:10 <b>following (3)</b> 133:18 154:10 234:9 <b>follows (1)</b> 10:5 <b>footnote (10)</b> 78:25 82:2,5,10 113:25 114:2 199:18,19 263:20 263:23 <b>foregoing (2)</b> 289:4 290:12 <b>foreign (7)</b> 131:6,9 174:18 175:12 178:6,12,16 <b>form (144)</b> 16:7,22 20:15 25:12 26:17,23 27:9,15,22 30:7 34:24 38:3,16 39:3,10 41:9,24 42:10 44:11 46:9 48:12 52:4,11 53:4 68:16,21 69:7 71:11 74:5 82:24 83:7 92:22 97:20 105:6 105:13 106:5 107:7 108:17 109:6 111:2 111:15 115:13 117:4,11 120:14,20 124:8,20 126:3,12 127:7,16 132:19 136:19 138:1 142:2 149:15,19 153:14 163:13 170:17 174:11 175:5,17 176:12 180:12,25 183:23 184:21 186:21 189:4 191:20 192:7,14 194:5,11 197:1,17 199:16 200:15 201:24 202:4 209:8 210:4 211:5,22 212:14 219:3 220:3 224:23 225:5 226:10,22 228:4 230:4 231:6 243:19	244:9 247:24 248:8 250:10,20 251:2,7 252:8 253:18 256:6 257:3,9 259:18 260:22 263:13 264:14,22 265:11 265:18 266:6,16,23 267:8 269:16 270:14,21 271:4,24 272:7,15,24 274:13 274:20 275:16 277:16 278:19 281:1,10 284:4,5,6 284:14,14 285:16 287:13,14,18 <b>format (1)</b> 146:1 <b>forms (5)</b> 56:2 81:20 82:6 120:1 284:7 <b>forth (1)</b> 290:8 <b>forward (2)</b> 245:25,25 <b>forwarded (7)</b> 32:9 47:11 189:23 221:23 224:7,8 242:20 <b>forwarding (1)</b> 240:6 <b>forwards (1)</b> 173:16 <b>found (2)</b> 76:21 112:18 <b>foundation (50)</b> 1:10 9:9 17:16,17 18:1 20:13,13,14,24 20:25 21:19,22 24:22 26:2 28:4,7,8 28:18,22,23 29:5,11 29:12,25 30:5,12 32:8 33:13 47:6,23 50:8 87:12 126:17 157:25 159:15,24 164:18 174:12 175:6 176:1,4 193:23 230:5 249:19 259:19 260:23 263:14 273:21 287:2,19 <b>foundation's (3)</b> 76:1 90:22 158:21 <b>foundational (1)</b> 176:17 <b>four (3)</b> 121:20 122:19 204:4	<b>fourth (2)</b> 107:21 122:19 <b>Fox (7)</b> 73:24,25 165:13,16 166:14,16 171:17 <b>fraction (2)</b> 174:6 177:23 <b>frame (4)</b> 258:19 259:10 260:1 261:5 <b>framework (1)</b> 25:4 <b>fraud (8)</b> 103:9,19 136:17 137:20 144:18,23 145:5,8 <b>fraudulent (1)</b> 165:1 <b>free (2)</b> 30:2 92:14 <b>freedom (1)</b> 30:2 <b>Freeman (23)</b> 80:24 81:1 82:19 83:12,15,18,25 94:13,17 96:19 97:2 97:13 98:9,22 99:1 254:12 260:11,13 260:20 262:1,4 285:21,24 <b>Freeman's (1)</b> 260:6 <b>Friends (2)</b> 165:13 166:16 <b>front (13)</b> 59:1 72:17 86:12 96:21 116:5 146:11 146:13 189:5 193:20 195:7 247:6 255:10 275:8 <b>frontier (2)</b> 185:3,8 <b>full (2)</b> 10:11 75:16 <b>further (8)</b> 104:12 179:8,11 222:11 275:3 287:7 288:5 290:16 <b>future (1)</b> 160:25
<b>G</b>				
<b>G (1)</b> 9:2 <b>game (1)</b> 226:6				

63:12 65:19 <b>Gearhart (6)</b> 116:21 117:16,21 199:11 200:11 208:19 <b>Gearhart's (1)</b> 210:21 <b>general (19)</b> 18:11 23:24 32:5,19 50:6,14 119:19 145:23 147:14 157:13 159:11 162:16 214:13 218:8 232:17 234:18 237:22 269:3 277:1 <b>generally (9)</b> 18:17 19:22 30:4,6 101:18 107:12 141:16 218:24 227:14 <b>generate (3)</b> 182:14 183:2 190:16 <b>generated (9)</b> 93:4 236:19,22,23 256:21 278:16 280:11,13,15 <b>geographic (1)</b> 18:24 <b>George (21)</b> 135:9,15,24 137:7,17 137:23 138:4,7,11 138:17 152:19 154:11,22 155:14 155:22 166:3 190:22,25 234:16 234:21 235:8 <b>George's (2)</b> 156:7 235:19 <b>germane (1)</b> 233:2 <b>getting (9)</b> 113:20 127:14 136:11 152:22 155:21 190:8 264:6,19 281:19 <b>give (4)</b> 11:9 251:13,16 280:3 <b>given (1)</b> 290:11 <b>gives (1)</b> 278:6 <b>giving (3)</b> 110:12 116:9 158:22 <b>Gmail (2)</b> 172:12,13	<b>go (59)</b> 11:15 12:7 17:22 31:6 32:13 40:9,14 43:16 51:7 53:22,22 55:22 55:23 56:25 57:25 59:13 61:14 63:3,18 64:7 67:3 77:13 78:13 79:22 80:9,20 81:15 82:12 84:2 87:22 93:22 94:11 94:24 99:19 102:11 103:15 106:3 107:18 113:6 116:11 120:5 123:9 123:25 127:23 128:11 142:16 144:13 145:21 146:3 192:13 206:24 215:22 230:7 232:21 236:7 244:13 254:5 262:7 276:13 <b>goal (2)</b> 181:12,14 <b>goals (3)</b> 107:4,12 181:17 <b>goes (1)</b> 34:17 <b>going (30)</b> 16:19,21 17:10 18:8 21:5 27:14 31:7 57:16 58:13,16 59:13 67:5,20 123:21 124:12 127:25 140:12 146:4 171:16 176:11 189:12 199:15 213:8 214:13 236:10 257:12 258:7 269:4 284:25 288:8 <b>good (6)</b> 117:14 127:21 166:25 184:25 188:16 212:17 <b>Gotcha (1)</b> 152:14 <b>government (3)</b> 23:19 25:5 105:3 <b>grand (3)</b> 101:24 106:3 154:2 <b>graphic (1)</b> 90:3 <b>gratuitous (2)</b> 25:14 199:24 <b>great (5)</b>	67:4 182:13 183:1 185:10 214:21 <b>greater (1)</b> 162:7 <b>green (2)</b> 250:18 287:24 <b>Greg (1)</b> 221:14 <b>grew (1)</b> 88:22 <b>ground (1)</b> 11:14 <b>grounds (4)</b> 104:15,16 106:23 142:6 <b>group (1)</b> 163:2 <b>Guatemala (1)</b> 130:23 <b>Guatemalan (1)</b> 130:21 <b>guess (8)</b> 16:15 19:7 55:24 79:18 95:8 107:15 115:3 251:8 <b>Guida (2)</b> 59:16 64:20 <b>Gunter (4)</b> 50:11 53:18 55:23 56:24 <b>Gwynn (1)</b> 149:22 <hr/> <b>H</b> <hr/> <b>H (1)</b> 128:15 <b>Haake (1)</b> 235:25 <b>half (3)</b> 66:6 129:13 179:6 <b>hand (9)</b> 57:16 101:23 106:2 109:21 119:6,12 154:1 252:19 290:21 <b>handed (25)</b> 46:23 58:7 75:6 108:25 110:9 128:25 134:24 136:25 143:7 148:23 154:16 157:3 163:23 165:20 167:19 171:23 181:21 204:22 214:5 220:19 223:8 232:8	237:6 242:3 245:4 <b>handing (2)</b> 31:15 109:16 <b>handle (1)</b> 147:24 <b>handled (1)</b> 180:1 <b>handwriting (4)</b> 55:15 175:11 178:11 254:24 <b>handwritten (9)</b> 55:11 58:22 59:7,22 61:9,18 63:6 64:2,9 <b>hanging (2)</b> 79:1 230:7 <b>Hans (1)</b> 286:25 <b>HANSON (2)</b> 3:8 155:6 <b>happened (6)</b> 14:23 131:23 150:8 212:10 263:2 266:11 <b>happening (2)</b> 13:22,25 <b>happens (1)</b> 248:1 <b>happy (5)</b> 12:4 46:8 49:9,10 115:15 <b>hard (2)</b> 247:18 257:19 <b>Harmon (2)</b> 60:10 64:24 <b>Harmonson (5)</b> 1:24 2:15 9:19 290:4 290:24 <b>head (1)</b> 153:19 <b>headed (1)</b> 268:16 <b>header (1)</b> 107:21 <b>headline (2)</b> 185:2,11 <b>heard (2)</b> 150:8 249:24 <b>hearing (4)</b> 10:25 233:3,5 234:13 <b>held (3)</b> 2:9 9:13 266:22 <b>help (3)</b> 176:20 189:7 287:16 <b>helped (1)</b> 19:24 <b>helpful (2)</b>	187:12 239:17 <b>helping (2)</b> 213:20,25 <b>helps (1)</b> 253:24 <b>Henry (1)</b> 10:13 <b>hereinbefore (1)</b> 290:8 <b>hereto (42)</b> 2:14 28:11 31:13 46:18 49:20 67:24 69:19 70:19 71:24 72:15 75:3 85:5 99:8 118:12 121:4 122:11 128:23 143:5 148:21 150:22 154:14 157:1 163:21 165:18 167:17 171:21 181:19 187:16 195:12 204:20 206:10 212:22 214:3 220:17 223:6 225:10 228:12 232:5 237:4 239:22 242:1 253:4 <b>hereunto (1)</b> 290:20 <b>high (3)</b> 186:3,12,16 <b>higher (6)</b> 184:18 185:15,21 188:24 189:7,10 <b>highlight (1)</b> 131:3 <b>hired (1)</b> 163:5 <b>history (6)</b> 103:10 135:19 142:11 151:20 153:22 249:17 <b>hit (5)</b> 46:14 47:19 48:3,21 49:3 <b>holiday (1)</b> 181:11 <b>home (7)</b> 44:16 82:20 94:4,6 97:3 100:2 182:16 <b>Homeland (1)</b> 250:1 <b>honor (1)</b> 248:5 <b>hope (1)</b>
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221:13 <b>hoped (1)</b> 273:19 <b>horizon (1)</b> 226:18 <b>horse (2)</b> 135:16 136:4 <b>hosted (1)</b> 169:22 <b>House (1)</b> 215:1 <b>House/Senate (3)</b> 218:12,14,20 <b>housekeeping (1)</b> 67:11 <b>houses (1)</b> 206:18 <b>Houston (1)</b> 168:8 <b>Huddleson (1)</b> 65:15 <b>Huddleston (1)</b> 62:21 <b>hundreds (5)</b> 103:19,25 192:1,2,20 <b>husband (1)</b> 129:21	48:13 50:23 83:21 83:21,25 90:14,15 131:25 231:25 259:16 270:19 <b>identify (3)</b> 53:21 90:10,12 <b>identity (5)</b> 20:16,17 21:3,7,11 <b>II (121)</b> 5:10 23:15,17 62:21 85:14,17,22 86:1,24 87:10 91:23 93:15 94:8,18 95:23 96:8 97:12 98:8,16,21 99:17,24 100:12,24 102:2,3,12 104:25 105:11,18 106:13 106:16 112:2 113:3 113:7 117:7,21 122:7 124:14,24 125:18 127:4 128:7 128:8,12,19 129:14 131:4 132:1,7,17 133:1,3,21,23 134:2 134:4,9,11,16 136:11,14 137:25 138:13,22 139:8,17 139:22 141:24 142:12,17 143:21 144:21,24 145:4 146:22 147:1,23 148:4,17 166:22 171:1,18 174:6 177:18 180:11,18 181:9,15 192:25 193:8,15 195:3 196:25 197:7 198:5 198:19,23 200:7 203:2,7 205:3 206:18 208:6,11,17 221:8 223:3 224:15 224:19 225:19 231:4 240:24 246:17 255:6 256:24 263:17 273:20 285:4,7 286:4 <b>illegal (6)</b> 88:25 89:6,11,16 161:23 182:22 <b>illegally (4)</b> 76:22 81:6,13 104:18 <b>immediate (1)</b> 239:19 <b>immigration (1)</b> 158:14	<b>impact (5)</b> 226:21 227:16,20,23 227:25 <b>implementation (1)</b> 33:25 <b>important (10)</b> 151:23 166:20 179:3 183:9 185:2,8,16,22 196:9,12 <b>imprecise (3)</b> 207:17 210:18,24 <b>improper (2)</b> 230:20 231:5 <b>inaccuracy (2)</b> 234:1,4 <b>inactive (1)</b> 274:6 <b>inadvertent (4)</b> 126:8,10,14 199:14 <b>inadvertently (4)</b> 124:18 195:4 200:10 200:13 <b>inappropriate (1)</b> 219:10 <b>incapacitated (1)</b> 45:7 <b>incidences (1)</b> 158:24 <b>include (2)</b> 152:24 225:1 <b>included (35)</b> 93:9 97:21 100:11 120:13 124:18,22 125:5,21,24 126:6 126:17,23,25 138:16 139:2 140:7 142:6 148:19 153:4 174:6 193:8,15,18 195:2,4 199:17 200:7,10,12 203:22 210:20 224:12 238:4 270:7 286:7 <b>includes (6)</b> 74:6 77:10 97:4 134:12 246:10 286:18 <b>including (5)</b> 30:2 34:18 50:5 199:11 220:6 <b>inclusion (9)</b> 89:9 126:7 127:3 130:1 199:14 203:10 259:21 260:24 285:11 <b>incomplete (1)</b> 148:1	<b>incorrect (4)</b> 48:25 52:2 66:21 207:15 <b>incorrectly (3)</b> 207:9 209:24 210:14 <b>increase (2)</b> 181:12,14 <b>incredibly (4)</b> 239:17,18 240:12 241:11 <b>independent (1)</b> 170:9 <b>INDEX (5)</b> 4:1,10 5:1 6:1 7:1 <b>Indiana (4)</b> 18:25 19:1,8 71:10 <b>Indianapolis (2)</b> 18:25 19:1 <b>indicate (3)</b> 131:10 150:12 243:9 <b>indicated (16)</b> 40:16 42:3 51:19 96:6 98:17,19 114:6 119:23 125:7,18 203:11 212:4 241:2 247:11,15 282:3 <b>indicates (2)</b> 61:9 243:7 <b>indicating (8)</b> 95:24 96:4 97:13,18 98:9 134:10 247:17 285:21 <b>indication (1)</b> 131:6 <b>indictment (3)</b> 101:25 106:3 154:2 <b>indirectly (1)</b> 201:9 <b>individual (11)</b> 51:15 53:20 128:7,15 140:4 170:15 219:16 248:25 258:20 259:6 281:14 <b>individually (1)</b> 190:12 <b>individuals (41)</b> 22:11 35:16 40:7,19 43:14 44:15 66:10 66:15 81:9 83:24 84:9 89:7 102:4 144:13 160:16 203:23 207:9 209:24 210:14 231:3,24 233:10,17 243:7 247:10,22	258:15 270:19 276:16 277:14 278:7,10,14 279:4 279:11,17,24 283:7 283:12,18 284:1 <b>ineligible (4)</b> 164:24 189:5 226:12 227:24 <b>inference (1)</b> 89:8 <b>influence (1)</b> 108:14 <b>info (2)</b> 155:18 253:11 <b>information (33)</b> 15:7 34:17 37:18 43:24 50:23 51:12 51:19,21 52:1,18,21 84:15 115:5 119:16 133:22 134:3,10 155:11,21 156:3 170:1,4,21 237:19 238:10 249:16 253:15 257:5 274:16 276:24 284:22 285:1,8 <b>informed (2)</b> 129:21 241:23 <b>informing (1)</b> 226:16 <b>initial (2)</b> 50:10 229:18 <b>initially (4)</b> 124:22 125:24 195:3 247:23 <b>inquire (1)</b> 256:24 <b>inside (1)</b> 87:10 <b>insofar (2)</b> 209:10 236:3 <b>inspection (4)</b> 33:13,24 37:4 76:20 <b>inspector (1)</b> 269:3 <b>instance (2)</b> 160:8,9 <b>instances (5)</b> 103:19 156:15,19,20 222:17 <b>instruct (1)</b> 18:16 <b>instructed (5)</b> 12:1 178:5 198:22 244:1 280:3 <b>instructing (2)</b>
<b>I</b> <b>ID (4)</b> 23:8 44:18 238:22,23 <b>idea (4)</b> 35:22 68:6,8 266:2 <b>Ideally (1)</b> 178:25 <b>identification (43)</b> 28:10 31:12 46:17 49:19,23 67:23 69:18 70:18 71:23 72:14 75:2 85:4 95:6 99:7 118:11 121:3 122:10 128:22 143:4 148:20 150:21 154:13 156:25 163:20 165:17 167:16 171:20 181:18 187:15 195:11 204:19 206:9 212:21 214:2 220:16 223:5 225:9 228:11 232:4 237:3 239:21 241:25 253:3 <b>identified (14)</b> 26:13 34:12 37:6				

21:9,12 <b>instruction (1)</b> 18:12 <b>instructions (1)</b> 119:14 <b>insufficient (1)</b> 241:21 <b>integrity (2)</b> 25:2 29:9 <b>intend (1)</b> 108:10 <b>intended (7)</b> 101:22 105:22 106:1 150:18 151:4 153:25 176:8 <b>intent (15)</b> 51:8 54:1,7 119:25 120:8,17,18,22 123:3,21 124:4,12 201:20 203:15 284:21 <b>interest (16)</b> 1:10 9:9 17:17 24:22 26:8 28:8,22 29:7 29:12 33:12 47:6 76:1 87:11 157:24 158:21 164:17 <b>interested (1)</b> 290:18 <b>Interestingly (1)</b> 247:9 <b>Internal (1)</b> 26:1 <b>internally (1)</b> 73:5 <b>Internet (11)</b> 99:22 100:9 101:4 109:11,14,21 110:16,20,23 111:5 111:13 <b>interpret (2)</b> 39:20 52:16 <b>interpretation (5)</b> 119:7 176:15 277:21 277:23 278:1 <b>interpretations (1)</b> 39:1 <b>interpreting (1)</b> 40:4 <b>intervene (2)</b> 26:7,10 <b>intervention (1)</b> 224:25 <b>interview (5)</b> 23:17 167:11 168:3,8 169:14	<b>interviews (2)</b> 169:15 171:8 <b>introduce (1)</b> 9:21 <b>invade (1)</b> 18:10 <b>invaded (1)</b> 68:15 <b>invasion (206)</b> 5:8,10 20:8 23:15,17 24:7 57:10,13 64:15 66:24 68:3,7,11,20 69:6,6,8,12 70:6 71:3 73:4 74:3,15 74:23 75:11,14,21 81:2,7 83:5 84:20 84:21 85:14,17,22 86:1,24,24 87:10,24 91:23 92:20 93:11 93:15 94:8,18 95:23 96:8 97:12 98:8,16 98:21 99:17,24 100:12,16,19,24 101:14 102:2,3,11 104:25 105:11,18 105:25 106:13,16 112:2 113:2,7 117:7 117:21 122:7 124:14,24 125:18 127:4 128:6,8,12,19 129:14 131:4 132:1 132:7,17 133:1,3,21 133:23 134:2,4,9,11 134:16 136:11,14 137:25 138:13,22 139:8,16,17,22 141:12,24 142:12 142:17 143:21 144:21 145:4,4 146:22 147:1,18,23 148:4,17 152:7 153:3,9 156:17,23 162:12,20,25 163:4 163:12,17 165:7,10 165:12 166:22 167:8,12 169:1 170:12 171:1,18 174:6 177:18 180:10,18 181:9,15 182:19 187:6 192:25 193:8,15 195:3 196:25 197:7 198:5,19,23 200:7 203:2,7 205:3,9 206:18 208:6,11,16 213:22 218:3,16,21	219:1,17,22 221:8 223:3 224:15,19 225:19 231:4 233:6 233:11 234:2,6 236:2 238:14 239:8 240:24,24 246:17 252:1,6,13 253:17 253:25 255:6 256:24 259:17 263:17 269:15 270:8,20 273:19 285:4,7 286:4 287:4 <b>investigate (2)</b> 105:20 162:9 <b>investigated (2)</b> 42:5 227:22 <b>investigating (2)</b> 108:13,20 <b>investigation (12)</b> 41:21,25 88:2 104:12 104:14 105:23 142:6 158:3 161:4 161:18 164:18 186:9 <b>investigations (3)</b> 161:8,14 268:19 <b>investigative (2)</b> 159:25 160:4 <b>invited (2)</b> 232:24,25 <b>involved (9)</b> 13:8 30:5 33:8 162:11 168:23 217:15 230:11 267:10 270:4 <b>involvement (3)</b> 270:18 271:1,3 <b>involving (9)</b> 10:19 205:1,6,7 217:19 267:5,6,12 269:10 <b>IRS (14)</b> 212:12 224:24 266:11 266:22 267:11,12 267:16,24 268:6,6,7 268:8,20 269:9 <b>issue (3)</b> 186:10 205:18 215:4 <b>issued (2)</b> 268:22 269:2 <b>issues (3)</b> 18:20 135:16 149:25 <b>issuing (2)</b> 163:18 227:15 <b>italicized (1)</b> 78:22	<b>item (1)</b> 67:11 <hr/> <b>J</b> <hr/> <b>J (1)</b> 3:19 <b>James (1)</b> 63:24 <b>January (4)</b> 37:21 46:3 150:1 189:14 <b>Jean (4)</b> 193:21 196:1 198:1 198:11 <b>Jeff (1)</b> 158:1 <b>job (2)</b> 1:25 20:11 <b>John (5)</b> 1:24 2:14 9:19 290:4 290:24 <b>Johnson (25)</b> 1:16 2:9 4:3 9:7 10:2 10:11,13 18:14 26:25 67:11 68:1 128:7 141:8 202:21 213:14 235:9 236:16 247:3 257:22 275:6 288:7 289:3,11,17 290:7 <b>join (1)</b> 173:9 <b>joint (5)</b> 23:25 215:1 218:12 218:14,20 <b>joked (1)</b> 190:21 <b>Jon (1)</b> 59:16 <b>Jr (1)</b> 190:25 <b>June (5)</b> 17:25 129:10 130:8 132:14 149:5 <b>jurisdiction (3)</b> 45:17 209:11 271:23 <b>jurisdictions (29)</b> 36:17 49:14,16 74:15 74:16 89:24 93:9,16 100:25 113:13 139:9,15 140:6 164:21 190:9,12,15 209:2 219:18,19 220:1 222:14 229:15 231:21 243:17 245:19,23	271:25 272:23 <b>jury (15)</b> 101:24 106:3 154:2 214:18 215:13 216:10,12,14,16,19 216:23 217:1,4,9,21 <b>Justice (4)</b> 196:15,17,18 270:5 <b>Justin (2)</b> 61:14 270:18 <hr/> <b>K</b> <hr/> <b>K (1)</b> 3:13 <b>Kaylan (1)</b> 29:17 <b>keep (4)</b> 72:16 159:17 214:22 226:1 <b>keeps (1)</b> 164:8 <b>Kelly (1)</b> 172:25 <b>kept (1)</b> 247:18 <b>Kevin (1)</b> 54:14 <b>key (1)</b> 172:22 <b>kind (8)</b> 20:4 25:10 29:24 30:15 68:2 104:10 248:23 269:9 <b>knew (10)</b> 117:2,21 131:8 133:2 233:17 244:2 246:10 270:4,6 280:1 <b>know (82)</b> 12:5,10 17:12 21:13 27:12 39:24 43:5 49:2,4 52:13 53:6 68:19,24 71:16,21 74:8,19 75:19 94:5 107:15 110:21 111:1,8,9,11,14 112:6 114:17 123:5 125:10 128:9 134:14,23 137:13 150:10,15 154:8 156:6,9,12 159:3 161:11 164:10 168:23 170:21 173:25 174:22 176:7 177:16,19 178:17 179:1 181:1
--	--	--	--	--



191:10 192:2 193:11 197:24 201:6 213:14 215:11 216:5 217:1 217:3 218:19 220:15 223:23 226:6 230:3 232:25 235:1,11 249:5 251:5 265:6,7,8,12 266:7 278:13 282:2 283:25 287:16 <b>Knowing (1)</b> 226:14 <b>knowledge (21)</b> 40:8 43:11 96:12,14 98:25 132:24 133:6 147:19,21,25 163:7 169:18 170:14,21 180:14 193:4 222:22 224:18 226:20 282:16 286:2 <b>known (6)</b> 18:1 20:18 21:11 28:3 33:20 116:21 <b>KTRH (2)</b> 168:2,8	126:22 203:14,24 203:25 204:7 <b>Latham's (1)</b> 203:20 <b>Latin (2)</b> 1:6 9:8 <b>launch (1)</b> 212:18 <b>law (25)</b> 30:13,15,15 41:3 43:2 53:6 101:7,9 102:6 103:7,18 104:3,5,19 106:20 107:23 108:10,11,14,16 142:4 156:16,22 162:4 216:2 <b>laws (2)</b> 18:19,21 <b>lawsuit (11)</b> 23:8 212:10,12 228:9 231:9 265:16,24 266:11 269:13,19 271:7 <b>lay (2)</b> 175:7 194:12 <b>layer (1)</b> 200:24 <b>lead (2)</b> 267:3 270:2 <b>leadership (3)</b> 159:16,18 224:3 <b>leading (8)</b> 247:25 248:9,17 249:2,11,18 264:15 266:24 <b>leads (2)</b> 159:25 160:5 <b>League (2)</b> 1:6 9:8 <b>leanings (1)</b> 30:21 <b>Lee (1)</b> 58:20 <b>Lee's (1)</b> 58:2 <b>left (2)</b> 128:14 222:5 <b>left-hand (1)</b> 103:16 <b>legal (29)</b> 1:10 3:20 9:9,18 17:16,17 18:1 24:22 26:2 28:3,7,8,18,22 28:23 29:5,11,12,25 30:5,12 33:12 47:6 76:1 87:11 157:24	158:21 164:18 168:20 <b>legalese (1)</b> 167:1 <b>length (1)</b> 16:19 <b>Lerner (2)</b> 267:12 268:7 <b>lesson (2)</b> 182:13 183:1 <b>let's (16)</b> 44:5 50:10 51:6 53:22 59:4 64:14 79:22 82:12 84:2 102:11 107:18 113:6 128:7 145:21 151:12 230:7 <b>letter (49)</b> 32:17,23 33:9,11,23 34:5 35:25 36:4,23 36:25 37:11,24 38:12,25 39:4 49:13 50:19,22 144:4,12 144:16 149:14,15 149:20 157:11,12 157:18,21,25 158:7 158:11,19,20 159:5 159:10 193:7,10,14 193:17,20,24 194:1 195:25 196:7,10,13 196:20,23 198:2 <b>letters (4)</b> 36:16 119:22 122:24 130:17 <b>level (2)</b> 18:20 103:8 <b>Levitt (1)</b> 270:18 <b>Levitt's (2)</b> 270:25 271:3 <b>liberal (1)</b> 31:3 <b>license (2)</b> 250:9 287:21 <b>licenses (1)</b> 250:25 <b>lieu (1)</b> 119:18 <b>likelihood (1)</b> 188:24 <b>likes (1)</b> 192:20 <b>limit (1)</b> 113:2 <b>limitations (1)</b> 230:24	<b>limited (1)</b> 285:4 <b>line (12)</b> 15:1,23 73:12 121:14 143:16 164:12 168:2 173:7 182:10 214:18 221:3 269:5 <b>lines (1)</b> 233:14 <b>linked (1)</b> 182:18 <b>LinkedIn (2)</b> 4:13 28:16 <b>list (71)</b> 33:14 35:5,16 37:20 37:25 38:13 39:2 40:7,12,15,16,18 42:1,8,16 44:15 45:23 46:6 53:10 57:8 58:14 60:1,16 64:15 66:7 78:15 84:10 120:25 131:7 132:8,16 143:16,24 143:24 144:13 145:13,14,16,18,21 145:22,23,25 146:17,24 147:4,4 149:24 151:17 160:11 164:7,9 188:13 191:19 200:21 202:23 203:1 211:4,9 215:3 215:17 216:23 217:2,4 224:10,13 247:14 259:21 260:25 272:13 283:15 <b>listed (39)</b> 44:11 77:11,23 78:4,8 78:11 80:18 81:18 93:17 94:4,5 95:14 99:23 104:25 133:2 133:23 134:3 144:13 147:5 180:10 192:24 196:25 197:7 198:5 198:18 205:3,8 208:1,20 231:3,16 233:10,18 239:11 243:7 257:1 259:11 260:21 276:17 <b>lists (18)</b> 34:3 51:2 57:6 131:22 140:8 152:23 154:6 172:22 188:24 217:21 238:3	240:17,20 241:15 243:4,14 253:13 278:24 <b>literal (1)</b> 69:8 <b>litigation (16)</b> 17:23 18:3,5,7 19:22 20:10 22:5 212:7,7 230:12 266:20 267:4,5,7 268:5,10 <b>little (7)</b> 29:6,6 55:15 56:21 59:1 66:6 136:21 <b>live (1)</b> 99:25 <b>LLP (1)</b> 2:11 <b>LO/IDD (1)</b> 1:8 <b>local (6)</b> 209:1 227:9 237:22 249:8 275:14 277:1 <b>localities (2)</b> 88:3 219:16 <b>locality (1)</b> 56:5 <b>location (1)</b> 18:24 <b>locations (1)</b> 228:3 <b>Lockerby (214)</b> 3:15 4:5,7 11:13 12:20,24 13:1,19 16:6,7,14,21 18:8 20:15 21:5 25:12 26:17,23 27:9,14,22 30:7,19 34:24 35:8 38:3,16 39:3,10 41:9,24 42:10 46:9 48:12 52:11 53:4 56:16 58:9 59:18 67:4 68:16,21 69:7 71:11 74:5 83:7 92:22 95:5 97:20,25 105:6,13 106:5,18 106:21 107:7 108:17 109:6,12 111:2,15 115:13,21 117:4,11,24 124:20 126:3,12 127:7,16 127:21 132:19 133:16 136:19 138:1 140:11 142:2 153:14 163:13 170:17 174:11 175:5,17,20,25
---	--	--	--	--

176:7,11,20 180:12 180:25 183:23 184:7,12,21 185:23 186:21 191:20 192:7,14 194:5,11 197:1,17 199:15,23 200:2,15 201:24 202:6,8,11 209:8 210:4 211:5,9,22 212:14,17 219:3,6,9 220:3,6 224:23 225:5 226:10,22 228:4 230:4 231:6 235:6,11 236:9 243:19 244:9 246:23 247:2 248:2 248:12,20 249:4,13 249:22 250:13,23 251:4,10,19,22 252:14,17,23 253:1 253:5,21 256:7,12 257:6,11,16,21,25 258:3,12 259:13 260:3 261:7 262:9 262:15,21 263:16 264:17,24 265:11 265:14,21 266:8,19 267:1,14,22 268:3 268:17 269:6,20 270:16,23 271:8 272:3,9,18 273:3,23 274:15,22 275:2,16 275:18,20,24 276:8 277:16,22 278:19 280:18 281:1,10 285:16 286:5,13 287:9,25 288:4	13:5 44:5 51:6 57:22 64:14 75:16 77:7 79:6 88:14 115:15 116:10 122:1 125:9 133:14 145:14 147:3 151:8 152:2 166:25 192:5,9,13 192:17 235:14 247:3 251:11 253:22 254:8,22 255:5 256:13 261:22 263:17,22 264:25 271:9 273:4 273:11,24 <b>looked (15)</b> 53:25 77:4 78:2,9 80:6 86:15 92:12,19 125:12 133:10 169:21 207:25 208:14 224:11 282:4 <b>looking (39)</b> 36:10,13 57:2 58:8 76:14 77:1 79:12 80:22 82:14 84:3 93:25 94:12 95:7 102:22 107:20 113:10 114:23 115:12 116:17,19 146:10 151:10 152:6 164:10 216:22 229:12 254:6,10 255:18,20 260:17 261:12 262:2 265:3 271:13 273:6 274:1 275:7 276:15 <b>looks (23)</b> 28:16 32:7 55:17 70:5 70:7 72:10 73:6 75:18,20 92:16 122:21 123:13 144:6 155:2 157:14 188:9,11 206:15 228:20 232:14 237:10 240:12 241:10 <b>losing (1)</b> 230:21 <b>Lovers (1)</b> 87:8 <b>Luciania (12)</b> 80:24 82:19 94:13 97:2 254:12 260:6 260:10,13,20 262:1 285:20,24	<b>luck (1)</b> 188:16 <b>lunch (1)</b> 140:9 <hr/> <b>M</b> <hr/> <b>mail (4)</b> 138:24 223:16 224:15 224:18 <b>mailbox (1)</b> 32:6 <b>mailed (4)</b> 110:5 139:4,6 243:8 <b>mailer (2)</b> 42:9,13 <b>mailing (15)</b> 120:13 143:16,23 144:13 145:14,16 145:18,23 146:17 147:3,4 148:6,10 224:10,12 <b>mailings (1)</b> 147:25 <b>main (1)</b> 19:18 <b>maintained (2)</b> 45:4 249:25 <b>maintenance (2)</b> 33:14 37:5 <b>major (1)</b> 181:11 <b>majority (2)</b> 112:23 263:5 <b>making (6)</b> 40:9 102:24 150:10 178:20 194:4 222:13 <b>manage (2)</b> 22:7,11 <b>management (1)</b> 22:13 <b>managing (1)</b> 22:17 <b>Manassas (1)</b> 227:2 <b>manner (3)</b> 25:22 26:4,6 <b>March (8)</b> 188:8 189:15,18 190:19 191:16 245:12 256:3 286:17 <b>Marie (1)</b> 61:6 <b>mark (7)</b> 57:17 67:21 183:10	185:7 187:12 188:17 251:17 <b>marked (103)</b> 8:6 28:10,13 31:12,16 46:17,24 49:19,22 58:1 67:12,23 69:18 69:21 70:18,21 71:23 72:1,14,21 75:2,5 85:4,7 97:7 99:7,10 118:11,14 121:3,6 122:10,13 128:22 129:1 134:25 137:1 143:4 143:8 148:20,24 150:21,24 154:13 154:17 156:25 157:4 163:20 165:17,20,21 167:16,19 171:20 171:24 174:3,7 177:15 181:18,22 187:15,18 195:11 195:14 204:19,23 206:9,12 212:21,24 214:2,6 220:16,20 223:5,9 225:9,12 228:11,14 232:4,7 237:3,7 239:21,24 241:25 242:4 245:5 247:4 251:12 252:15,18 253:3,23 263:18 265:1 271:10 273:12,25 274:7 275:7 286:14 <b>marks (2)</b> 158:11 288:6 <b>marriage (1)</b> 290:18 <b>Marston (5)</b> 213:15 214:17 217:9 217:20 218:19 <b>Marston's (1)</b> 218:2 <b>match (1)</b> 153:21 <b>material (4)</b> 19:25 20:2 253:20 271:6 <b>math (3)</b> 66:8 77:18,20 <b>matter (7)</b> 9:7 21:7 42:6 159:17 221:17 236:2 290:19 <b>matters (6)</b> 13:8 20:7 29:7,9 30:2	170:7 <b>Maureen (5)</b> 128:15 129:6,19 132:4,15 <b>McAuliffe (1)</b> 226:5 <b>McGuire (2)</b> 62:6 65:11 <b>McNally (1)</b> 173:1 <b>Meagher (2)</b> 2:10 3:4 <b>mean (38)</b> 13:15 19:9 20:1 22:6 26:6,10 31:4 38:18 39:20 42:13 57:12 92:23 100:10 101:16 104:2 108:9 115:1 123:2 130:18 130:25 131:18 135:16 136:3,7 137:14 147:24 168:14,18 176:17 190:2 191:8 216:13 226:9 238:23 263:3 263:11 270:3 284:6 <b>meaning (2)</b> 137:6 153:5 <b>means (7)</b> 26:25 27:13 104:7 107:25 134:15 281:13 286:21 <b>meant (10)</b> 49:2,4 123:5 168:24 179:14 183:4 190:8 197:8 209:18 260:25 <b>media (12)</b> 19:25 20:2 22:25 23:3 129:18,22 139:2 164:7,9 165:6 171:8 184:19 <b>meet (2)</b> 12:21 13:1 <b>meeting (6)</b> 150:18 151:4 152:11 155:17 215:1,8 <b>member (2)</b> 47:24 287:1 <b>members (12)</b> 29:21 50:8 145:22 158:7 159:4,4,10 218:14,20 233:5,10 234:20 <b>Memo (2)</b> 265:6,9
---	--	---	---	---

<b>Memorial (4)</b> 180:19,23 181:6,6	<b>mistakes (1)</b> 52:9	64:17 68:12 80:24 83:3 94:1,13 97:21 151:17 172:25 179:2 196:1 200:17 208:15,20 238:18 238:20 255:21 260:7 270:7,10,11 285:13 291:2	159:25 160:4 206:5 206:7 226:2	214:21 227:24 228:2 229:16,23 230:13 231:5,25 233:11 236:3 237:21 243:6,16 247:9,12,17 250:25 253:14 277:1 283:5 285:8 286:4
<b>memory (1)</b> 252:4	<b>Mo (1)</b> 159:16		<b>Newport (3)</b> 149:11,25 150:14	
<b>mentally (1)</b> 45:7	<b>modifies (1)</b> 104:9		<b>News (6)</b> 73:25 149:11,25 150:14 166:14 171:17	
<b>mention (5)</b> 14:19 17:14 28:5 136:13 226:12	<b>modifying (1)</b> 104:4	<b>named (2)</b> 115:9 128:15	<b>Ngo (2)</b> 3:20 9:17	<b>noncitizenship (11)</b> 230:18 261:3 272:14 275:14 277:6 279:1 279:25 280:25 281:3 283:23 284:9
<b>mentioned (18)</b> 14:15,16,17 15:1,11 19:21 24:6 28:2 38:14 49:12 126:25 128:15,18 136:8 162:17 165:15 169:9 231:9	<b>moment (1)</b> 118:10	<b>names (32)</b> 45:24 46:2 58:14 66:2 80:23 93:16 99:22 109:5,11,14,17 110:24 111:13 151:20 152:6,16 174:18,23 175:3 178:6,16,23 179:7 179:15,18,22 180:3 180:6,7,9,15 197:15	<b>nine (1)</b> 74:12	
<b>mentions (2)</b> 265:24 266:10	<b>Moore (2)</b> 63:24 65:23		<b>nodding (2)</b> 11:18 153:19	<b>nonlawyers (2)</b> 168:16,18
<b>met (5)</b> 12:18,24 156:12,16 156:22	<b>morning (1)</b> 143:25		<b>Noel (15)</b> 1:16 2:9 4:3 9:7 10:2 10:13 168:5 183:8 205:15 257:22 288:7 289:3,11,16 290:7	<b>nonpartisan (3)</b> 25:6,17,21
<b>mic (1)</b> 286:11	<b>Moser (5)</b> 54:14,21 56:8 59:5 64:18	<b>Nancy (2)</b> 137:8,13	<b>non-legelese (1)</b> 168:11	<b>Norcross (10)</b> 21:15 47:19,22 48:2,6 48:11,14,17,21 49:2
<b>Michael (3)</b> 3:15 60:9 62:20	<b>Moser's (1)</b> 54:17	<b>narrative (3)</b> 182:15 183:3 259:3	<b>non-United (1)</b> 274:25	<b>normally (1)</b> 71:7
<b>Michele (1)</b> 32:20	<b>motivations (2)</b> 145:2,7	<b>nasty (2)</b> 196:6,20	<b>noncitizen (48)</b> 16:1 36:9 37:20 38:10 38:23 39:6,17,22 40:5 44:12,25 46:1 75:23 87:1 90:5 98:3 108:2 113:20 114:12 124:16 130:6 141:15 142:1 144:22 158:24 207:22 211:8 239:12 244:12,22 250:15 255:1,15 256:1 257:2 258:17 259:8,24 261:18 262:17 263:7 264:6 264:19 274:11 280:10 285:12 286:21 287:23	<b>notable (4)</b> 186:23,25 187:1,5
<b>Michelle (1)</b> 60:4	<b>Motor (2)</b> 34:18 42:3	<b>National (2)</b> 33:15,19		<b>Notary (3)</b> 2:16 290:4 291:25
<b>Middle (3)</b> 91:7 174:18 178:6	<b>move (1)</b> 45:16	<b>native (1)</b> 146:1		<b>notation (23)</b> 55:12 58:22 59:7,22 60:4,12,19 61:1,10 61:18 62:1,8,16,23 63:6,14,20 64:2,9 66:25 84:14 255:2 280:9
<b>mind (11)</b> 21:17 28:23 61:21 79:23 168:24 169:8 217:16 226:2 241:11,12,17	<b>moved (1)</b> 274:18	<b>naturalized (1)</b> 247:22		<b>notations (3)</b> 66:21 67:19 133:8
<b>minds (1)</b> 159:18	<b>multiple (1)</b> 91:20	<b>nature (3)</b> 10:25 267:6 268:9		<b>note (5)</b> 70:22 241:3 263:24 263:24 264:5
<b>mine (1)</b> 255:12	<b>Musselman (2)</b> 63:18 65:21	<b>near (3)</b> 73:3 96:25 166:14		<b>noted (4)</b> 56:2 81:2 94:8,18
<b>minutes (5)</b> 12:8 154:24 155:13 236:8 269:23	<b>mutually (1)</b> 200:4	<b>nearly (3)</b> 88:8 89:1 164:25		<b>notes (2)</b> 70:9 275:11
<b>misleading (1)</b> 98:1	<hr/>	<b>Nebraska (1)</b> 274:18		<b>notice (22)</b> 44:1 51:8 54:1,7,11 54:16 55:1 58:2 61:17 62:23 64:1 120:8,16,18,22 123:21,23 201:19 247:12,16 248:4 284:21
<b>missing (3)</b> 245:19,22 246:6	<b>N (2)</b> 3:1 9:2	<b>necessarily (7)</b> 111:11 131:9 133:7 156:5 179:17 230:19 263:11		<b>notices (9)</b> 53:19 58:18 66:18 119:25 120:2 123:3 203:15 243:8
<b>mission (1)</b> 29:3	<b>N.W (1)</b> 2:11	<b>need (8)</b> 56:19 111:19 155:17 166:13 179:6,8,11 254:3	<b>noncitizens (65)</b> 34:23 35:7 39:16 40:7 77:15,24 78:15,21 79:6 82:8 84:10 88:3 89:21 90:7 94:8,18 104:17 105:1,5 107:24 114:8 115:9 126:2 134:11 149:24 158:3,23 160:11 164:13,19 183:22 184:6,10 185:15,21 186:3,17,20 207:11 210:1,16 211:1,1	
<b>misstates (7)</b> 16:8 42:11 98:4 106:6 133:16 252:9 270:15	<b>nabbed (1)</b> 190:22	<b>needed (1)</b> 73:19		
<b>mistake (4)</b> 124:19 126:10,16 247:19	<b>Nam (2)</b> 3:20 9:17	<b>needing (1)</b> 135:17		
	<b>name (64)</b> 9:17 10:12 24:2 28:7 29:1,8 58:25 59:1,6 59:10,17,25 60:7,11 60:15,20,23 61:4,8 61:12,16,21 62:4,7 62:11,14,15,18,22 63:1,4,5,9,13,16,19 63:22,25 64:5,8,12	<b>never (4)</b> 126:24 285:20,24,25		
		<b>new (9)</b> 2:11 3:5 9:14 58:6		

<p>247:10  <b>notification (2)</b>  51:10 55:5  <b>noting (2)</b>  235:15 245:18  <b>November (15)</b>  74:25 118:24 119:10  121:12 122:20  151:13,14 154:22  204:3,3,5 205:13  220:25 271:18  272:10  <b>number (96)</b>  9:6,12 13:14,15 30:1  32:14 36:20 42:22  46:2,25 47:11 49:24  51:7 55:24,25 57:9  58:2,9 59:18 70:22  72:2,22 78:1,8 79:1  82:22 85:8 88:20  89:12 90:18 91:1,12  93:9 95:6,16 96:15  97:5 99:13 102:23  104:20 110:6 112:6  116:3 118:16 120:5  121:7 122:14  123:10 129:1 135:3  143:9 147:5 148:25  150:25 154:18  157:5 165:22  167:20 169:19  170:1,16 171:24  177:16,21 181:15  181:23 183:22  184:5 186:12  187:19 188:23,23  189:10 195:8,15  204:16,23 214:7  220:21 223:10  225:13 228:1,15  229:6 230:8 232:8  237:8 238:7,23  239:25 242:4  245:10 252:24  257:14 261:10,24  <b>numbers (27)</b>  77:10 86:3,9 89:21  95:7 114:15,17  115:3,10,19 116:16  169:24 177:18  184:1,19 185:15,21  186:3,14,16 189:7  191:25 192:3,6,13  192:23 231:16  <b>numerous (2)</b>  230:14,15</p>	<p><b>NVRA (3)</b>  33:20,23 34:7  <b>NW (2)</b>  3:5,13</p> <hr/> <p><b>O</b></p> <hr/> <p><b>O (1)</b>  9:2  <b>oath (17)</b>  2:17 10:4,16 11:2,5  40:18,22 42:4 43:20  117:22 134:5 141:9  248:15 281:14,18  281:23 282:19  <b>object (99)</b>  11:24 16:7,21 18:9  20:15 21:5 25:12,13  26:17,23 27:9,14,22  30:7 34:24 38:3,16  39:3,10 41:9,24  42:10 46:9 48:12  52:11 53:4 68:16,21  69:7 71:11 74:5  83:7 92:22 97:20  105:6,13 106:5  107:7 108:17 109:6  111:2,15 115:13  117:4,11 124:20  126:3,12 127:7,16  132:19 136:19  138:1 142:2 153:14  163:13 170:17  174:11 175:5,17  176:12 180:12,25  183:23 184:21  186:21 191:20  192:7,14 194:5,11  197:1,17 199:15  200:15 201:24  202:4 209:8 210:4  211:5,22 212:14  219:3 220:3 224:23  225:5 226:10,22  228:4 230:4 231:6  243:19 244:9  275:16 277:16  278:19 281:1,10  285:16  <b>objected (1)</b>  202:8  <b>objecting (1)</b>  202:17  <b>objection (64)</b>  30:19 35:8 97:23,25  106:18,21 109:12  115:21 117:24</p>	<p>133:16 175:19  184:7,12 185:23  199:22 219:5 220:5  247:24 248:8,17  249:2,11,18 250:10  250:20 251:2,7  252:8 253:18 256:6  256:8 257:3,9 259:2  259:18 260:22  263:13 264:14,22  265:11,18 266:6,16  266:23 267:8,18,25  268:11 269:5,16  270:14,21 271:4,24  272:7,15,24 273:21  274:13,20 276:8  280:18 286:5  287:18  <b>objections (3)</b>  199:24 200:1 278:4  <b>objectives (1)</b>  189:8  <b>obligation (1)</b>  202:12  <b>obligations (1)</b>  33:15  <b>observe (1)</b>  112:12  <b>obtain (7)</b>  36:5 140:2 159:5  190:7 227:1 250:8  250:25  <b>obtained (1)</b>  266:3  <b>obtaining (1)</b>  217:21  <b>obviously (2)</b>  175:12 178:11  <b>occasions (1)</b>  230:14  <b>October (9)</b>  157:15 164:4 167:25  182:6 193:6 195:21  202:22 214:11,16  <b>offered (3)</b>  192:11 237:18 276:22  <b>office (10)</b>  13:24 31:24 32:22  33:23 36:24 54:17  152:12 155:17  160:12 221:16  <b>office's (1)</b>  33:14  <b>officer (1)</b>  33:5  <b>offices (2)</b></p>	<p>2:10 40:21  <b>official (12)</b>  17:22 34:2 41:4 55:5  88:9 104:19 105:3  207:10 209:25  210:15,25 212:5  <b>officials (16)</b>  24:18 44:1 45:5 52:9  81:10 101:23  103:18 106:2  107:23 109:1  138:21 142:5 154:1  201:17 224:16  280:3  <b>officiated (1)</b>  2:17  <b>Oh (4)</b>  92:4 144:9 197:6  224:8  <b>okay (41)</b>  11:18,19 12:1,2,5,6  12:12,13 47:5 53:24  58:14,15 64:14  67:19 81:22 86:22  86:23 91:19 95:4,11  107:18 110:4 111:7  113:10 117:18  146:2,10 148:2  151:12 176:23  189:17 197:6  206:23 242:9 254:5  254:10 255:8,10  261:12 262:11  265:3  <b>old (1)</b>  87:7  <b>once (4)</b>  28:3 86:7 99:25 190:9  <b>ones (9)</b>  45:13 124:21 139:13  174:9,17 177:25  178:5,21 179:7  <b>online (4)</b>  101:8,12,17,19  <b>Op-eds (1)</b>  20:3  <b>opine (1)</b>  287:3  <b>opinion (5)</b>  175:7 176:1 181:10  194:12 205:23  <b>opposed (2)</b>  109:16 134:17  <b>option (8)</b>  52:17 53:2 110:11,13  110:15,17,18 116:9</p>	<p><b>options (6)</b>  109:20,22,23,24  110:4,7  <b>order (1)</b>  281:24  <b>organization (3)</b>  19:2 268:2,16  <b>organization's (1)</b>  270:11  <b>organizational (1)</b>  29:2  <b>organize (2)</b>  182:14 183:2  <b>original (2)</b>  243:17 285:2  <b>originally (5)</b>  229:14 240:17,21  241:16 263:7  <b>outcome (1)</b>  290:19  <b>outlandish (4)</b>  174:18 175:11 178:6  178:10  <b>outlandishness (1)</b>  179:2  <b>outlined (1)</b>  41:21  <b>outreach (1)</b>  141:18  <b>outside (5)</b>  266:16,24 267:9,18  268:11  <b>oversaw (1)</b>  24:14  <b>Overseas (1)</b>  130:16  <b>oversee (2)</b>  22:4,6  <b>overseeing (1)</b>  68:2  <b>owe (1)</b>  56:18</p> <hr/> <p><b>P</b></p> <hr/> <p><b>P (3)</b>  3:1,1 9:2  <b>p.m (29)</b>  47:18 48:7,8 128:1,4  140:13 141:3,6  146:5,8 155:1  173:19 176:24  190:19,21 200:19  202:22 213:9,12  236:11,14 242:17  242:20,23 258:8,11  286:17 288:8,9</p>
---	---	---	--	--

<p><b>PAC (1)</b> 91:7</p> <p><b>page (106)</b> 4:2,11 5:2 6:2 7:2 8:2 11:15 31:19,25 45:25 57:2,20 59:6 69:25 76:12,14 77:13 78:13,14 79:24,25 80:9,21,22 81:2,6,11,15 82:1 82:12,14,15 83:8 84:2,3,4 87:22 88:19 89:19 93:22 93:25 94:11,12,24 95:7 102:11,20,22 102:23 103:1,15 107:18,20 113:6,8 113:10 114:6,9 116:11,13,15 119:1 120:16 121:17 124:2 128:11,13 142:16,19 143:14 144:8,9 146:12,13 147:4 151:14 155:6 164:16 182:16 205:12 206:15,17 206:24 229:11 247:7 253:6 254:9 254:10,23 255:11 255:17,19,20 257:15 259:16 260:7,15,16,21 261:12,17,23 262:2 262:16 263:19 266:9</p> <p><b>pages (14)</b> 36:19 44:6 59:4 60:3 60:9,25 61:6 62:13 62:20 63:11 92:15 99:25 173:20 177:2</p> <p><b>paragraph (21)</b> 37:3,17 38:8 76:15,17 80:10 88:1,18 89:20 90:2 103:16 107:22 113:12,23 114:10 114:14 142:19 159:14 218:1 226:9 229:13</p> <p><b>paragraphs (3)</b> 33:22 113:19 158:10</p> <p><b>Pardon (3)</b> 176:12 235:6 275:18</p> <p><b>part (15)</b> 22:12 34:15 105:10 108:7 114:20 117:1 117:8 184:22 203:5</p>	<p>214:12 228:5 231:11 260:5,13 267:16</p> <p><b>participation (1)</b> 108:3</p> <p><b>particular (15)</b> 26:15,22 27:4 36:10 54:13 158:12 178:23 190:13 206:17 244:19 249:9 254:14 260:21 261:13 276:19</p> <p><b>particularly (3)</b> 11:12 174:18 178:6</p> <p><b>parties (5)</b> 27:7,17,21 226:15 290:17</p> <p><b>partisan (6)</b> 25:22,24 26:4,6,8 224:25</p> <p><b>party (13)</b> 27:24 213:19 220:1 221:15 222:10,18 222:25 223:2,25 224:16,22 226:4 227:9</p> <p><b>Paso (1)</b> 160:12</p> <p><b>passport (1)</b> 194:1</p> <p><b>pasted (1)</b> 190:24</p> <p><b>Patricia (1)</b> 60:18</p> <p><b>pay (5)</b> 46:14 47:19 48:3,21 49:3</p> <p><b>PDF (3)</b> 37:19 38:9 44:5</p> <p><b>Peggy (1)</b> 63:18</p> <p><b>pen (1)</b> 57:18</p> <p><b>pending (1)</b> 12:11</p> <p><b>Pennsylvania (1)</b> 24:1</p> <p><b>people (87)</b> 29:10 37:25 38:13 40:16 41:22 42:2 46:7 49:5 57:6 66:25 77:11 80:18 81:18,20 83:21 99:23 101:10 102:7 104:24,24 105:12</p>	<p>105:18 106:16 108:12 110:6,25 111:14,24 113:3 131:25 132:8 133:2 133:15,22 134:3,12 135:19 139:8 143:25 144:17 146:24 152:6 161:22,24 178:1 181:8,15 185:19 188:23 189:6 191:22 192:1,24 193:3 196:24 197:20,25 198:5,14 198:16,16,18 200:6 205:2,8 210:22 211:17 216:11,25 217:15 224:9 246:10 247:8,14,15 247:18,19 263:3 278:24 282:16,23 283:3 284:23 285:2 285:5,7 286:9</p> <p><b>people's (6)</b> 109:5,10,13 115:3,19 281:9</p> <p><b>percent (1)</b> 68:13</p> <p><b>performed (1)</b> 90:17</p> <p><b>period (11)</b> 46:3 53:14 92:6,7 93:2 117:25 118:2 119:4 180:21 188:2 189:14</p> <p><b>periods (1)</b> 92:17</p> <p><b>person (10)</b> 17:10 59:15 139:12 170:19 190:15 246:8 247:12 248:14 277:10 287:23</p> <p><b>personal (2)</b> 147:19,21</p> <p><b>personally (5)</b> 83:11,14 112:7 162:6 217:8</p> <p><b>personnel (1)</b> 141:20</p> <p><b>perained (1)</b> 140:5</p> <p><b>pertaining (2)</b> 50:23 279:23</p> <p><b>pertains (2)</b> 275:12 290:12</p>	<p><b>Pg (1)</b> 291:5</p> <p><b>Phillip (1)</b> 62:6</p> <p><b>Phillips (4)</b> 29:17 73:11 170:3,5</p> <p><b>phone (20)</b> 96:15 114:15,17 115:3,10,19 116:3 148:13,15 149:23 150:5,10,16 167:11 191:25 192:3,6,12 192:23 196:14</p> <p><b>phrase (5)</b> 78:21 89:5 98:4 179:18 244:15</p> <p><b>phrases (1)</b> 168:11</p> <p><b>phrasing (1)</b> 136:20</p> <p><b>Pick (2)</b> 174:17 178:5</p> <p><b>picked (1)</b> 180:3</p> <p><b>piggyback (2)</b> 136:16 137:19</p> <p><b>pile (1)</b> 96:25</p> <p><b>PILF (189)</b> 7:4 17:12,13,14,15,21 17:24 19:1,8 22:11 23:1,14,18 24:17 25:17,21 26:25 27:3 27:7,16,20 28:3,6 32:3,10 33:3 34:7 46:6,8 47:11,18 49:5 50:20 53:18 66:10,15 68:14 69:5 74:19,23 75:16 76:6 82:4,7 83:4,5,17,23 84:15,19 86:8 88:13 90:10,12 91:13 94:21 95:8,22,23 96:3,12 97:11,17 98:7,25 100:7 101:3 101:6,9 102:2,8,24 104:10 107:3,11 108:6,25 109:4,10 110:19,24 111:8,23 113:2,13 114:4,7 117:2,7,9,20 125:17 126:1,11,16 127:12 131:3 135:13 137:24 138:12 140:2 141:19,25 142:9 143:1 146:25</p>	<p>148:14 150:11 156:21 157:19 159:6,9,18 162:25 163:18 164:8 165:6 168:25 169:15,18 169:20,25 170:8,11 170:24 177:13 182:5 184:10 185:16,22 187:6,11 187:24 189:7 190:6 190:12 191:17 193:2,6,13,25 199:11 203:8,21 204:11,14 205:2,6,8 206:3 208:5,9 209:4 216:22 219:24 222:20 224:18,21 226:20 227:1,19 228:8 231:24 232:22,25 234:9 235:1,12 236:17 241:6,20 244:18,24 245:15 249:17 250:3,24 256:23 261:10 265:15 269:10,14 271:21 272:6,21 273:19 274:16 280:24 288:2</p> <p><b>PILF's (26)</b> 32:5 36:25 37:10 75:13 85:18 86:1,7 90:19,23 99:4,16,21 105:10 124:15,19 170:2,16 181:14 187:12 211:21 226:25 227:5 235:9 257:18 274:24 280:15</p> <p><b>PILF-ADAMS-000...</b> 5:20</p> <p><b>PILF-ADAMS-000...</b> 7:16</p> <p><b>PILF-ADAMS-000...</b> 5:24</p> <p><b>PILF-ADAMS-000...</b> 6:16</p> <p><b>PILF-ADAMS-000...</b> 5:22</p> <p><b>PILF-ADAMS-000...</b> 5:12</p> <p><b>PILF-ADAMS-000...</b> 6:20</p> <p><b>PILF-ADAMS-000...</b> 6:6</p> <p><b>PILF-ADAMS-000...</b></p>
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7:8 <b>PILF-ADAMS-000...</b> 5:6 <b>PILF-ADAMS-000...</b> 7:24 <b>PILF-ADAMS-000...</b> 7:22 <b>PILF-ADAMS-000...</b> 6:12 <b>PILF-ADAMS-000...</b> 5:4 <b>PILF-ADAMS-000...</b> 4:25 <b>PILF-ADAMS-000...</b> 6:8 <b>PILF-ADAMS-000...</b> 8:4 <b>PILF-ADAMS-000...</b> 4:19,21 <b>PILF-ADAMS-000...</b> 4:15 <b>PILF-ADAMS-000...</b> 6:22 <b>PILF-ADAMS-000...</b> 7:10 <b>PILF-ADAMS-001...</b> 7:6 <b>PILF-ADAMS-001...</b> 5:18 <b>PILF-ADAMS-001...</b> 5:16 <b>PILF-ADAMS-001...</b> 5:14 <b>PILF-ADAMS-001...</b> 6:4 <b>PILF-ADAMS-001...</b> 6:10 <b>PILF-ADAMS-001...</b> 4:23 <b>PILF-ADAMS-001...</b> 7:20 <b>PILF-ADAMS-001...</b> 6:24 <b>PILF-ADAMS-003...</b> 6:18 <b>PILF-ADAMS-003...</b> 7:18 <b>PILF-ADAMS-004...</b> 6:14 <b>PILF-ADAMS-004...</b> 4:17 <b>PILF-ADAMS-004...</b> 7:12 <b>PILF-ADAMS-005...</b> 7:14 <b>placed (2)</b>	9:23 64:17 <b>placement (1)</b> 187:7 <b>places (2)</b> 45:2 230:15 <b>plaintiffs (3)</b> 1:8 3:3 270:12 <b>plan (1)</b> 148:3 <b>planning (1)</b> 146:25 <b>plays (1)</b> 222:5 <b>please (23)</b> 9:21 11:17 16:11 52:3 61:4 63:16,22 66:4 93:22 107:8 120:19 168:5 192:13 247:4 251:11 253:22 254:9 255:5 264:25 271:9 273:4,11,24 <b>pleased (1)</b> 49:5 <b>pleasure (1)</b> 49:8 <b>plus (2)</b> 164:12 182:22 <b>point (14)</b> 43:23 56:17 117:17 119:10 134:8 169:22 176:21 186:22 202:14 216:9 243:21 247:23 280:1 282:1 <b>pointed (1)</b> 129:18 <b>points (3)</b> 172:23 265:5,9 <b>policies (4)</b> 227:17,18,20,23 <b>policy (1)</b> 189:8 <b>political (10)</b> 26:7,11 27:7,17,20,24 30:21 91:3,6 224:22 <b>portion (3)</b> 147:22 199:18,19 <b>position (6)</b> 22:13 33:5 119:6,9,11 227:5 <b>positive (2)</b> 191:4,8 <b>possessed (5)</b> 83:8 112:3 118:3,5 133:22 <b>possession (4)</b>	96:2 97:16 98:11 235:10 <b>possibility (6)</b> 52:24 53:2 132:21 191:11,12,14 <b>possible (10)</b> 55:18 108:23,24 109:23 138:25 139:1 151:22 251:14 279:20 283:10 <b>possibly (2)</b> 191:19 279:17 <b>posted (1)</b> 169:11 <b>potential (9)</b> 44:2 160:11 165:2 237:21 275:13 277:1,6 278:25 279:24 <b>potentially (10)</b> 34:12 35:18 37:6,14 50:24 104:13 161:24 283:8,23 284:8 <b>Powell (15)</b> 29:17 32:25 50:19 118:23 121:11 148:8 149:7,11 166:4 195:22 205:22 220:25 221:10 237:14 257:23 <b>Powell's (1)</b> 205:12 <b>power (5)</b> 159:23 160:19,25 161:5 162:8 <b>practice (2)</b> 30:16 263:2 <b>praised (1)</b> 157:25 <b>preceding (2)</b> 89:14 213:24 <b>precise (1)</b> 211:24 <b>predicate (1)</b> 262:10 <b>predicting (1)</b> 131:19 <b>premise (1)</b> 202:16 <b>preparation (7)</b> 15:16 16:5,13,16,16 16:18 24:7 <b>prepare (2)</b>	12:14,23 <b>prepared (1)</b> 234:22 <b>present (4)</b> 3:18 28:19 37:21 250:16 <b>presented (2)</b> 169:3 287:21 <b>preservation (1)</b> 25:3 <b>President (1)</b> 136:16 <b>press (14)</b> 135:18 157:19,23,24 158:11,20 159:15 160:6 163:18 164:4 164:17 165:5 169:6 171:14 <b>pressure (1)</b> 214:22 <b>presumably (2)</b> 71:19 166:7 <b>prevalence (1)</b> 227:23 <b>prevent (2)</b> 189:5 250:16 <b>previous (10)</b> 36:19 37:11 47:9 53:25 67:17 78:2 138:16 155:1 200:16 242:19 <b>previously (18)</b> 8:6 48:17 134:25 137:1 151:3 203:12 210:13 229:17,23 245:5 248:15 251:12 253:23 258:20 272:5,22 273:19,25 <b>Prince (44)</b> 31:23 32:18,21 34:7 34:22 35:6 36:24 37:17,19 38:1,9,15 39:9,12,15,19,21 40:6,10 41:21 44:6 44:13 45:23 46:7 47:10 48:6 49:6 57:4 77:5,23 78:14 79:7,9 80:3,6,13 81:16,23 82:8 93:12 100:20 130:20 153:9 255:3 <b>print (3)</b> 101:19 169:15 171:8 <b>printed (7)</b> 79:15 85:18 101:17	110:2,7 169:7 206:22 <b>printout (3)</b> 7:4 206:15,20 <b>printouts (1)</b> 151:18 <b>prior (3)</b> 42:12 88:8 106:6 <b>privately (2)</b> 26:21 27:3 <b>privilege (1)</b> 18:10 <b>Privileges (4)</b> 23:23 162:15 213:21 232:16 <b>privity (1)</b> 198:20 <b>probably (5)</b> 13:24 110:6 115:7 127:21 226:6 <b>problem (3)</b> 144:23 176:18 189:11 <b>problems (2)</b> 88:21 89:23 <b>Procedure (1)</b> 2:13 <b>proceeding (1)</b> 11:1 <b>proceedings (2)</b> 11:3 290:14 <b>process (9)</b> 15:24,25 40:24 41:20 44:3 54:3 68:25 248:21 283:10 <b>processed (1)</b> 54:3 <b>processing (1)</b> 268:15 <b>produce (3)</b> 19:24 119:15 219:1 <b>produced (4)</b> 146:1 217:6 235:12 264:1 <b>producers (1)</b> 166:14 <b>product (2)</b> 19:17 24:15 <b>production (2)</b> 68:3 271:5 <b>Professional (1)</b> 2:15 <b>profile (4)</b> 4:13 28:16,17 30:11 <b>program (1)</b> 249:25 <b>programs (1)</b>
---	---	---	--	--

33:25 <b>prohibit (1)</b> 224:25 <b>project (3)</b> 22:15 145:3 152:24 <b>projects (2)</b> 22:16,17 <b>prominent (1)</b> 187:7 <b>promote (6)</b> 162:12,20,25 165:10 167:11 168:25 <b>promoting (1)</b> 167:7 <b>promotion (3)</b> 162:22 163:7 183:5 <b>promotional (1)</b> 170:25 <b>proof (2)</b> 145:5,7 <b>proposed (1)</b> 144:3 <b>prosecute (9)</b> 101:10 102:4 103:9 104:15,17,21,23 108:7 162:9 <b>prosecuted (6)</b> 105:12,19 106:17 107:6,14,17 <b>prosecuting (2)</b> 107:24 151:21 <b>prosecution (18)</b> 101:23 102:7 103:12 103:25 104:13 105:21 106:1,24 107:4,12 142:1,7,12 153:25 159:24 160:19,24 161:1 <b>prosecutions (2)</b> 161:9,15 <b>prosecutor (3)</b> 141:12,15 156:13 <b>prosecutors (15)</b> 109:2,17,22 110:10 110:12 141:19 143:1 148:3,14,17 148:19 158:2 161:4 249:15 251:6 <b>provide (11)</b> 11:17 23:19 40:25 52:17 53:1 214:13 244:1 247:10 272:5 272:12 279:18 <b>provided (28)</b> 43:25 49:17 51:21 52:21 53:18 56:24	57:4 74:16,17 77:5 78:15 81:10,17,19 82:3,8 84:10 105:3 108:2 154:6 156:3 190:4 194:24 200:20 203:4 234:25 272:1,20 <b>provides (2)</b> 55:2 279:3 <b>providing (8)</b> 37:19 38:1,9,13 52:16 159:25 179:15 273:2 <b>psychological (2)</b> 185:2,8 <b>public (25)</b> 1:10 2:16 9:9 17:17 21:8,8 24:21 28:7 28:22 29:7,12 33:12 33:24 47:6 75:25 76:20 87:11 157:24 158:20 161:9,15 164:17 234:20 290:4 291:25 <b>publication (6)</b> 69:16 111:12 213:22 231:23 265:9 269:14 <b>publications (1)</b> 169:15 <b>publicize (2)</b> 165:7 170:25 <b>publicized (1)</b> 161:18 <b>publicly (4)</b> 20:17 21:11 26:14 161:23 <b>publish (11)</b> 100:8,17 101:3,12 109:4,10,20 110:20 111:19 219:1 273:19 <b>published (67)</b> 74:15,24 75:14,17 76:6 83:5 84:21,23 85:2,22 86:1,8 87:19 91:22 92:11 93:13,16 95:22 97:12 98:8,16 100:20,24 101:15 101:16,18 109:13 110:23,24 111:5 112:1 116:25 117:7 117:20 122:7 124:15,25 125:18 128:9 129:14 132:7	132:16 133:2,22 134:3,10,16,20 136:11,15 138:13 143:21 144:22,24 146:22 163:5 170:12 203:5,8 228:8 231:4 238:13 239:8 240:23 246:17 256:23 287:5 <b>publishing (11)</b> 74:21 96:8 98:21 101:8 102:8 105:11 105:17 106:13,15 110:16 197:16 <b>pull (3)</b> 74:3 205:17 271:11 <b>pulled (5)</b> 75:13 195:9 204:14 206:3 211:17 <b>purported (6)</b> 185:15,21 186:3,16 186:20 228:1 <b>purports (1)</b> 46:5 <b>purpose (9)</b> 34:1 53:7 105:10,17 106:15 112:10 196:23 227:14 233:3 <b>purposes (2)</b> 105:20 280:15 <b>pursuant (2)</b> 2:12 34:6 <b>pursue (1)</b> 158:3 <b>put (20)</b> 46:22 59:1 72:18 84:18 118:9 151:19 162:10 180:17 183:17 185:13 193:5 198:1 206:2 213:6 218:23 222:23 232:3 245:1 246:19 266:4 <b>putting (2)</b> 104:22 172:19	43:7 46:10 82:25 97:7 98:1 100:4 106:6,8,9,10 107:9 108:18 112:13,19 112:24 113:4,22 114:5 115:6,7,23 116:21 117:12,15 117:25 125:11,16 127:2 132:6 133:19 134:7 138:2 174:3 174:12 175:6,22 176:18,21 177:1 178:4 192:17,18 194:16,17 197:2 199:16 202:16 208:8 209:9 210:5,8 219:8 225:6,8 245:22 249:21,23 254:16 262:10,12 264:8,21 267:3,21 277:17 278:9,12 281:21 282:22 286:16,19 <b>questioning (4)</b> 15:2,23 233:6 269:5 <b>questionnaire (1)</b> 217:10 <b>questionnaires (1)</b> 214:18 <b>questions (15)</b> 11:25 15:12,20 31:5 170:15 176:10 202:12 216:17 233:4 246:21 251:20 275:3,25 286:13 288:5 <b>quick (1)</b> 212:20 <b>quite (1)</b> 186:12 <b>quotations (1)</b> 211:2 <b>quote (10)</b> 34:10 54:21 142:14 159:22 196:20,21 199:2 209:5,7 270:1 <b>quoting (1)</b> 142:18	197:20 <b>ranges (1)</b> 92:15 <b>re-publications (1)</b> 230:23 <b>reach (2)</b> 173:8 187:13 <b>reaching (1)</b> 222:24 <b>reaction (2)</b> 239:16,20 <b>read (13)</b> 55:4 166:24,25 176:21 192:20 229:14,18 230:25 246:13 264:4 289:3 289:4 291:5 <b>reader (5)</b> 79:5,8 114:1 209:16 226:17 <b>readiness (1)</b> 215:2 <b>reading (1)</b> 240:15 <b>Reads (1)</b> 291:5 <b>ready (1)</b> 99:19 <b>Reagan (8)</b> 135:9 137:7 152:15 152:19,20 155:16 166:3 234:16 <b>real (3)</b> 115:1,18 212:20 <b>Realize (1)</b> 166:19 <b>really (2)</b> 59:13 205:11 <b>reason (20)</b> 11:8 48:24 101:12,14 108:7 111:10,11 112:12 130:7 136:14 137:24 138:4,8 156:2 194:23 221:24 276:6,10 278:6 291:5 <b>reasons (16)</b> 104:20 132:12 186:25 187:3,10 204:2 210:23 215:17 216:19 230:17 233:19 243:10 246:8 274:23,25 279:20 <b>reassemble (1)</b>
---	---	--	---	---

## Q

## question (95)

11:1,21 12:3,11,11  
16:11,17,22,24  
17:11 18:9,11,13  
25:13,23 26:18,24  
27:16 35:4 38:11,19  
39:8 40:1 41:10

## R

## R (3)

3:1 9:2 290:1  
**radio (6)**  
23:7 167:11 168:2,8  
169:5 171:5  
**random (1)**

67:13 <b>recall (164)</b> 11:4 15:9 16:3 21:14 23:3,7,10,12 24:2,5 27:23 28:6,9 30:3 35:24 36:3 46:7,11 46:13,15 48:2,4,5,9 48:16 57:10 69:14 69:17 74:14,22 75:1 85:1,24,25 86:18 93:20 94:23 99:6 100:14,16 101:2,5 101:11,13,20,21,25 102:5,9 110:22 111:4,7,10,18 116:2 119:4 123:23 128:21 131:4 133:6 134:18,22 135:23 135:25 136:2,21 137:16,23 138:3,7 138:10,14 139:14 141:21 148:7,11,13 148:15,16,18 150:7 150:17,20 151:4,19 154:5,8,10,12 155:21,23 156:1,14 156:19 159:12 162:19,22 163:18 165:12,14 167:6,9 167:10,23 168:23 169:5 170:24 171:6 171:16 174:4 178:24 179:22 180:3,6 183:15 193:12,13,21,23 204:13 205:21 212:9,11 213:20,24 217:13 222:8,11,21 222:24 223:4 224:10,20 226:25 227:3,4,6 233:4,7,9 233:15,16,24 234:9 234:11,12,15,16,17 234:19,21 235:18 235:21,24,25 236:4 239:19 241:12,20 252:4,10 257:7 269:2 273:22 <b>recalled (2)</b> 105:24 194:6 <b>recalling (5)</b> 14:17 15:10 49:7 165:11 227:7 <b>receipt (1)</b> 243:2 <b>receive (5)</b>	41:6 42:8 138:18,20 156:10 <b>received (45)</b> 32:21 46:6 51:15,18 91:13,17,19 123:6 123:15,18,20 124:6 124:10 138:23,24 176:4,6 183:16 186:14 188:4 189:12 190:18 191:18 193:6,13,23 193:25 196:14 205:2,8 207:20 208:5,9,23 209:5 210:20 211:15 212:4 231:21 235:5 235:8 239:14 255:3 269:21 271:21 <b>receives (1)</b> 41:11 <b>receiving (5)</b> 49:6 51:12 156:9 239:16 257:7 <b>Recess (6)</b> 67:7 128:2 140:14 213:10 236:12 258:9 <b>recipient (1)</b> 52:20 <b>recipients (1)</b> 164:10 <b>recitation (1)</b> 233:13 <b>recited (1)</b> 2:14 <b>recognize (47)</b> 28:15 31:17 32:15 47:2,3 50:2,4 69:22 70:23,25 72:5,25 75:7 85:11 118:18 118:20 121:9 122:17 123:12 129:4 133:7 135:6 137:4 143:12 149:2 154:19 157:6,8 163:25 167:22 172:3 182:1,3 187:20 195:18 206:14 213:3 214:9 220:22 223:13 225:16 228:19 232:12 237:9 240:3 242:9 245:8 <b>recognized (5)</b> 107:3,11 132:7,15 191:17	<b>recollection (10)</b> 13:8,12 68:25 99:15 142:16 150:5 151:9 171:19 220:10 287:3 <b>recommendation (1)</b> 142:23 <b>recommendations (4)</b> 102:24 103:2,5 142:22 <b>recommended (2)</b> 141:25 142:4 <b>record (49)</b> 9:24 10:6,12 21:8 22:1,20 31:6,8,9,11 35:13,17 36:11 39:19 48:14 49:6 52:12 67:3,6,9 75:12 85:16,21 86:20 98:5 116:20 127:24 128:1,4 140:13 141:6 146:3 146:5,6,8 208:4,9 213:9,12 236:8,11 236:14 252:17 258:8,11 277:19,21 288:8 290:10 <b>records (77)</b> 33:13,25 34:7 36:5,7 36:13 37:4 45:4 48:7 49:11 56:23 71:8 74:16,17,20 79:20 83:12 88:14 100:8,10,11,17 102:8 103:10 105:3 110:20 121:20 133:14 138:18,20 139:2,7,9,21 140:3 142:11 143:1 153:3 153:5,13 154:6 180:10 183:17 191:17 197:14 203:21 207:7,11 209:5,23 210:13,19 210:21 212:3 216:24 217:5 219:15,25 220:9,11 220:13 221:7,17,25 222:14,19 229:16 231:3 270:7 272:6 273:1 280:22 281:17,22 283:19 283:21 285:21 <b>redacted (2)</b> 86:4,10 <b>refer (3)</b>	213:25 229:8 268:19 <b>reference (5)</b> 84:4 87:23 177:7 211:9 246:15 <b>referenced (5)</b> 57:13 66:25 100:18 160:5 199:19 <b>references (1)</b> 158:20 <b>referencing (1)</b> 221:6 <b>referred (4)</b> 236:24 237:1 250:18 250:18 <b>referring (24)</b> 17:10,12 51:11 80:17 82:10 89:6 92:1,4,5 107:16 111:25 128:9 132:3 166:23 173:24 174:1 193:18 215:7,10 218:6,11,17 230:12 276:20 <b>refers (8)</b> 81:8 89:14,16 113:19 113:23,25 114:2 152:20 <b>reflect (5)</b> 16:1 212:3 216:25 283:19,20 <b>reflected (5)</b> 21:8 82:15 207:8,16 209:24 <b>reflecting (2)</b> 188:4 283:22 <b>reflective (1)</b> 180:9 <b>reflects (2)</b> 106:7 219:10 <b>reforms (1)</b> 188:25 <b>refresh (5)</b> 13:7 99:15 142:15 150:4 151:9 <b>refuse (1)</b> 158:13 <b>refutes (1)</b> 144:18 <b>regard (4)</b> 14:9 130:8 233:7 282:24 <b>regarding (17)</b> 15:23 34:11 100:8 148:17 157:10 196:1 201:18 215:13 216:11	221:10 222:9 234:10 253:13 277:6,13 278:10 279:12 <b>regardless (1)</b> 83:3 <b>REGION (1)</b> 1:7 <b>register (2)</b> 51:22 107:25 <b>registered (15)</b> 2:15 53:11 76:21 78:16 81:6,12 104:18 121:1 164:19 228:2 229:17,23 262:22 263:4 285:3 <b>registering (5)</b> 80:13 189:6 216:20 247:23 262:24 <b>registrant (5)</b> 39:21 40:11 41:16 112:13 264:11 <b>registrant's (1)</b> 238:17 <b>registrants (24)</b> 34:11 35:6 40:23,25 50:23 88:20,25 89:6 89:12,16 112:16 113:20 114:8,12,16 142:1 153:21 197:7 229:24 230:17 243:4,14 264:6,19 <b>registrar (17)</b> 32:18,20,21 36:14 41:14,18 50:6,15 52:14 54:5,9 119:19 215:13 248:7 249:8 271:15 284:18 <b>registrars (12)</b> 139:1 140:4,6 227:2 234:18 235:22 237:22 243:4 244:1 272:5 275:14 277:2 <b>registration (113)</b> 18:18 20:7 33:15,19 34:13 36:9 37:7 41:19 42:19,25 43:7 44:18 50:25 53:19 54:11,16,18 58:17 75:23 81:17,20,24 82:3,6,17 86:17 87:1 94:21 95:11 96:4,7,18 97:1,18 98:12,17,20 103:10 111:23 112:3,11,20
--	--	---	---	--

113:14 114:3,20 115:2 117:1,10,16 118:3 120:1 121:24 125:1,22,23 126:1 126:25 127:3 130:3 133:4,24 139:23,25 142:10 158:16,25 165:1 174:2,5 177:8 177:13 189:4 195:1 195:8 199:12 200:9 200:12 201:22 202:15 203:9 204:14 206:4 207:10 208:22 209:25 210:10,13 210:15,25 215:2 226:13 227:17,21 227:24 236:3 237:20,25 238:22 239:1,4 254:11,15 261:25 263:25 274:3 275:12 276:3 276:25 279:4 281:6 281:19 282:5 284:11	<b>relevancy (1)</b> 21:6 <b>relied (3)</b> 24:17 139:7 234:6 <b>relies (1)</b> 285:18 <b>religious (1)</b> 30:2 <b>remaining (2)</b> 264:5,19 <b>remember (15)</b> 101:22 129:20 136:22 151:18 153:24 164:2 168:10 180:15 183:8,13 204:4 213:23,25 233:13 235:20 <b>remembering (2)</b> 151:11 169:17 <b>removable (1)</b> 139:1 <b>removal (2)</b> 88:9 152:23 <b>removed (18)</b> 53:10 78:17 81:20 84:11 86:17 88:4,20 89:22 113:15 120:25 149:24 207:12 230:16 233:18 243:5,9,15 247:8 <b>Rep (1)</b> 159:16 <b>repeat (7)</b> 16:11 100:3 107:8 205:4 208:8 249:20 281:21 <b>repeated (1)</b> 106:11 <b>repeatedly (3)</b> 108:1 280:19 281:11 <b>rephrase (2)</b> 267:3,20 <b>replaced (2)</b> 206:4 229:23 <b>replied (1)</b> 269:23 <b>report (245)</b> 56:25 57:3 58:8 67:1 68:7,8,10,20 69:15 70:9,12 71:3,15 72:7 73:4,13 74:3 75:16,20 76:13 77:5 77:14 78:2,5,9 79:9 79:11,13,15 80:2,5 80:10 81:7,15,16,18	83:4 84:2,20,22 85:14,17 86:24 87:22 88:13 90:13 91:13,15,18,25 92:1 92:6,7,18,19,24 93:4,10,17 96:4,6 97:18,22 98:19 100:17,18,20,21,25 101:4,24 102:2,16 103:11,16,20 104:1 105:4,7 106:2 107:19,22 113:3,7 114:7 115:9 119:17 128:16 130:2,20 134:20 135:17 142:14 144:18 147:1,18,23 148:4 151:18 152:24 153:9 154:1 158:21 159:6 163:4,8 166:15,22 167:8 171:1 172:19 173:10 180:23 181:5,16 182:16,18 182:20,22 183:5,6 187:7,13 188:4,13 189:14,17,25 190:3 190:6,13,14,25 193:8,15 196:2,25 198:5,23,23 199:20 203:25 204:8,11 205:9 208:2,4,12,16 215:4 218:9,15,15 218:16,21 219:17 219:22 221:8 223:3 223:17 227:11,15 228:1,6,21,23 229:4 233:18 234:5,5 236:2,19,21,25 237:12,12,18 238:4 238:9,13,15,16,17 239:4,17 240:7,21 241:6,21,24 242:14 242:20 243:2,2,7 244:19,20 245:14 245:18 246:10,16 252:2,6 253:20,25 254:8 255:13 256:2 256:10,10 257:1 258:15,23 259:5,7,7 259:11,17 260:4,14 263:18,23 268:25 269:2 276:5,9,23 277:13 278:6,10,16 278:17,21,24 279:3 279:16 280:13,16	280:21 282:21 285:12,14,17,18 286:7 <b>reported (2)</b> 1:24 105:2 <b>reporter (44)</b> 2:15 9:19 28:12 31:15 46:23 49:22 69:21 70:21 72:1,21 75:5 85:7,9 118:14 122:13 128:25 134:24 136:25 143:7 148:23 150:24 154:16 157:3 163:23 165:19 167:18 171:23 181:21 187:18 195:14 204:22 206:12 212:24 214:5 220:19 223:8 225:12 228:14 232:7 237:6 239:24 242:3 252:16 266:3 <b>reporting (3)</b> 9:17,20 182:19 <b>reports (69)</b> 15:25 19:24 20:4,6,8 22:22 24:7,10 68:3 77:1,11,12 81:9 89:9 91:20 92:17 101:14 119:7,12 131:20 140:5 141:12 153:5 156:18,23 162:12 162:21,25 163:12 183:19,21 184:2,15 187:24 188:1 198:17 211:14 219:1 225:3 227:1 231:18,20,25 236:18 238:14 239:7,8 244:2,4,6 246:7,16 268:22,25 269:15 270:20 271:21 272:1 280:2 280:4,6,9,24 281:2 281:5,8 282:17 283:2 287:5 <b>represent (3)</b> 21:1 206:22 248:23 <b>representative (1)</b> 180:9 <b>represented (2)</b> 14:16 268:1 <b>representing (1)</b>	266:14 <b>Republican (8)</b> 213:18 220:1 221:15 222:10,18,25 223:2 227:9 <b>request (26)</b> 33:13 34:7,10,21 35:2 35:5,15,22 37:19 45:19 49:11 54:22 55:8 140:8 154:25 168:3 178:20 180:2 215:13 222:14 241:24 243:17 272:21 273:2 274:24 280:22 <b>requested (13)</b> 36:5,14 37:4 119:16 121:15 154:6 156:4 220:11 243:4,14 245:15 274:16 290:15 <b>requesting (5)</b> 153:20 155:11 180:8 243:22 272:6 <b>requests (8)</b> 50:22 76:20 216:10 217:6 220:13 241:8 241:22 243:3 <b>required (3)</b> 115:5 117:13 226:15 <b>requirement (3)</b> 53:6 56:13 263:1 <b>requirements (7)</b> 26:3 34:13 35:19 37:7 37:15 50:25 130:14 <b>requires (2)</b> 33:23 41:3 <b>reregister (3)</b> 55:19 56:8,10 <b>reregistered (33)</b> 55:14 56:4,11 58:23 59:8,16,23 60:5,12 60:21 61:1,10,19 62:1,8,16,24 63:7 63:14,20 64:2,10 66:11,16,19 67:1 84:16 133:3,9,15,24 248:22 258:22 <b>reregisters (1)</b> 249:6 <b>research (8)</b> 18:4,6,12,14,19 19:21 159:19 233:2 <b>resided (1)</b> 131:6 <b>residing (3)</b>
---	--	--	--	---

130:24 131:9 160:16 <b>Resolution (1)</b> 91:7 <b>resources (1)</b> 158:2 <b>respect (7)</b> 160:15 163:17 202:22 203:22 216:6 217:20 259:15 <b>respond (7)</b> 53:9 54:22 55:8 120:24 152:1,14 167:4 <b>responded (13)</b> 49:10 56:3 76:20 148:10 179:19 185:10 191:3 196:5 196:8 224:2 242:23 245:17 277:10 <b>responding (2)</b> 50:18 166:8 <b>responds (5)</b> 47:17 152:21 173:1 173:13 245:22 <b>response (20)</b> 36:25 37:18 46:14 103:17 104:2,5,9,10 142:4,5 239:13 242:12,15 246:1,4,6 247:8,16 254:16 277:10 <b>responses (6)</b> 11:18 49:17 122:23 123:3 148:11 216:3 <b>responsibilities (3)</b> 18:2 19:23 22:12 <b>responsibility (2)</b> 22:19,22 <b>responsible (1)</b> 68:2 <b>responsive (6)</b> 35:2,14,20 235:13 272:21 273:2 <b>responsiveness (1)</b> 156:7 <b>rest (1)</b> 43:15 <b>restate (1)</b> 12:4 <b>result (3)</b> 88:19,20 271:6 <b>resulted (1)</b> 145:3 <b>resulting (1)</b> 269:14	<b>return (3)</b> 52:4 120:21 246:12 <b>returned (2)</b> 41:15 54:8 <b>revealed (1)</b> 88:2 <b>Revenue (1)</b> 26:1 <b>review (6)</b> 18:18 22:20 70:16 112:7,9 290:14 <b>reviewed (4)</b> 25:25 113:13 114:4 177:14 <b>reviewing (1)</b> 42:1 <b>revised (1)</b> 207:2 <b>RICHMOND (1)</b> 1:6 <b>Riddlemoser (1)</b> 221:15 <b>Riggs (4)</b> 15:21 270:1,4,10 <b>right (191)</b> 11:20 17:8 19:2,5 22:3 23:15 24:8 25:16 28:19 31:24 32:3 33:1 37:22 39:18 41:6,23 44:2 44:4,16,25 45:24 46:4 50:20 51:24 52:20 54:1 55:3 57:7,20 58:16,20 66:17 67:18,19,20 70:14 73:5,7 74:4 76:1,2,8 77:6,13,17 77:24 78:6 80:3 81:8,11,25 82:4,9 86:11 87:8,24,25 89:17 91:4,8,13 92:8,13,15 93:11 94:9 95:12,14 96:15 96:22,25 105:1,4 110:14 112:22 114:1 116:5 119:24 120:9,21 121:21,25 122:21 124:4,25 125:19 127:15 128:20 129:11,14 129:15 131:11 132:9 133:11 135:13 136:7,20 144:5 145:24 155:2 155:3,11,12 156:8,9 161:16 164:5,14	172:6,12,23 174:7 180:20 181:16 182:7,16,17,20 187:9 188:8,14 189:10,19,21 191:1 192:1,4,6,13 193:16 194:2 196:10,16 198:13 200:23 204:17,18 205:3 206:7,19 214:14 219:13 221:1 224:22 225:19,24 238:12,16,18 239:18 243:18 244:5,16,19,21 245:15,23 246:2,17 246:23 254:2,12,13 256:4,5,15 257:17 261:19 263:8,12 264:9 269:24 271:18 272:6 273:8 274:6 275:2,15 276:3,18 277:7,11 278:12,15 279:7 280:5,8,13 283:14 283:21 285:14 <b>right-hand (6)</b> 55:12 103:6 113:11 256:4,14 261:10 <b>rights (3)</b> 21:15 30:4 268:14 <b>Rizwana (1)</b> 31:23 <b>Roanoke (2)</b> 221:4,7 <b>role (2)</b> 162:14 201:6 <b>roll (2)</b> 282:21 283:4 <b>rollout (1)</b> 171:17 <b>rolls (26)</b> 41:8 42:19 43:4,16 54:6 77:15 84:11 88:4,21 89:22 113:21 149:25 158:23 164:13 186:4 214:22 243:5 243:15 247:18 253:14 264:7,20 281:20,24 282:2 283:8 <b>Rosen (19)</b> 193:22,24 196:1,14 198:1,3,11,15 199:7 199:10 200:6	201:12,15 202:23 204:10 208:1 210:20 211:13 270:6 <b>Rosen's (8)</b> 194:9,13,18 195:1 201:22 202:15 205:10 208:15 <b>roster (1)</b> 224:3 <b>roughly (2)</b> 70:12 74:2 <b>round (1)</b> 214:25 <b>RPR (2)</b> 1:24 290:24 <b>RPV (4)</b> 221:15,18,24 224:3 <b>ruled (1)</b> 230:22 <b>rules (3)</b> 2:12 11:14 224:24 <b>running (2)</b> 135:19 269:4 <b>rural (1)</b> 84:8 <hr/> <b>S</b> <hr/> <b>S (2)</b> 3:1 9:2 <b>Safe (7)</b> 158:22 159:5 227:11 227:15 228:8,21 231:23 <b>safeguards (1)</b> 189:5 <b>sample (2)</b> 76:19 88:7 <b>sanctuary (8)</b> 158:12,22 227:17,18 227:20,22 228:2 229:15 <b>satire (1)</b> 68:22 <b>satirical (1)</b> 69:3 <b>satisfy (5)</b> 241:7,22,24 243:3 280:22 <b>satisfying (5)</b> 34:12 35:18 37:6,15 50:24 <b>SAVE (1)</b> 249:24 <b>saw (9)</b> 47:19 48:10,21 49:13	78:1 141:24 155:1 203:13 270:9 <b>saying (25)</b> 22:11 25:20 33:11 46:13 48:2,4,11,17 49:3 89:13 91:19 124:15 152:2 177:1 183:1 184:23 185:7 186:13,17,18 191:8 201:9 205:5 284:7,8 <b>says (91)</b> 28:20 34:5 37:2,3 38:8,23 41:1 44:24 45:1,25 50:17,18 51:18 53:9,12 54:25 55:10,14 56:6 57:8 70:8 73:12 76:18 77:14 78:14 79:3,23 81:19 82:2,5 84:7 86:24 87:4 88:7 90:5 103:2,7,17 114:12 119:21 120:19,23,24 121:14 123:18 124:10 144:17 146:1 149:21 151:17 157:10 160:18 164:12 173:6 174:17 182:13,22 183:8 185:9 188:18 196:11 199:5 205:15 207:5,24,24 215:20,21 229:19 254:20,25 255:13 256:1,3,14,17,20 257:1 258:15 262:16 263:25 264:5,9,10 265:9 274:3,5,5 278:21 279:14 285:12 <b>scandal (3)</b> 267:12,17 268:20 <b>scope (5)</b> 266:17,24 267:9,19 268:12 <b>Scott (1)</b> 63:3 <b>Scoville (2)</b> 60:18 65:1 <b>screen (3)</b> 173:20 174:14 177:2 <b>screenshot (1)</b> 182:15 <b>scrutiny (1)</b> 131:20
--	--	--	--	--



<p>196:21,24 197:6,25 198:4,14 <b>SEAN (1)</b> 3:7 <b>search (1)</b> 199:7 <b>second (23)</b> 37:3 38:8 70:8 76:15 80:10 84:19,21 85:1 86:8,21 89:20 92:7 103:17 151:13 155:6 163:4,7 188:4 189:17 206:24 219:21 229:13 243:13 <b>seconds (2)</b> 194:7 205:14 <b>secretary (2)</b> 33:3 50:20 <b>section (3)</b> 34:6 142:23 226:2 <b>Security (3)</b> 86:3,9 250:1 <b>see (319)</b> 33:17,18 36:21,22 44:7 46:25 47:1,15 47:20,21 48:23 49:24 50:1,13 51:1 51:9,24,25 52:6,7 53:24 55:11,25 58:3 58:19 59:5,6,9,16 59:16,17,22 60:4,11 60:18,20 61:1,8,15 61:16,23 62:7,14,15 62:22 63:3,5,13,19 63:25 64:8 71:17,18 72:3,4,23,24 73:14 76:16,23,24 77:14 78:7,19,20 79:3,24 80:15,16,23,25 84:6 84:12,13,17 87:2,3 87:6 88:5,11,12,23 88:24 89:3,4,25 90:1,4,6,8,9 94:1,3 94:4,5,13,16 95:9 99:22 100:2 103:13 103:14,22,23 105:11,18 108:4,5 109:5 113:17,18 118:17 120:6,7 121:8 122:15,16,25 123:1,11,15,19 124:5 128:17 129:2 129:3 130:10,11 131:16,17 135:2,4,9 135:10,12,21,22</p>	<p>137:3,9,12,21,22 143:10,11 144:1,2 144:11,19,20 147:6 147:7,10,13,16 148:25 149:1 150:2 150:3 151:1,2,15,16 151:24,25 152:3,4 152:12,13,17,18,25 153:1 154:3,4 155:19,20 158:5,6,8 158:9,17,18 159:1,2 159:20,21 160:2,3 160:21 164:22,23 165:3,4,24,25 166:17,18 167:2,3 168:12,13 169:23 172:1,2,20,24 173:9 173:11,14,22,23 174:20,21 175:13 175:14 177:4,5 178:8,9,13,14 179:4 179:5,9,10 181:9,24 181:25 182:11,24 183:11,12 185:4,5 189:15,16 191:5 193:10 195:17,23 195:24,25 196:3 198:25 204:24,25 205:13,19 207:1,13 207:14 210:1,2 213:1 214:7,8,19,23 215:5,6,14,19,20,24 216:4 218:10 221:21,22 222:1,6,7 223:11,19 224:5,8 225:14 226:7,8 228:17,18 229:6,7 230:1,2,8 232:10,11 237:23 240:1,2,13 240:16,18 241:4,14 242:5 243:11 245:19,20 254:21 255:21 256:17,21 256:22 261:15 262:6 263:19,21 264:2,3 265:25 266:1 270:10 274:2 274:4,7 277:3,4 282:12 <b>seeing (1)</b> 148:18 <b>seek (1)</b> 35:5 <b>seeking (2)</b> 36:6 145:4 <b>seeks (3)</b></p>	<p>18:9,13 20:16 <b>seen (29)</b> 31:21 32:16 47:4 69:23 70:24 72:6 96:23 118:19 122:18 129:5 135:7 143:13 148:12 149:3 150:9 154:20 164:1,2 172:4 187:21 195:19 214:10 220:23 225:17 240:4 242:11 245:9 265:16,19 <b>segue (3)</b> 219:8 262:10,11 <b>select (1)</b> 110:5 <b>self-reported (4)</b> 258:16 259:8,23 261:2 <b>send (11)</b> 41:4 42:9 70:15 148:3 152:15 178:1 204:7 223:2 278:15,17 284:20 <b>sending (5)</b> 51:4 73:11 121:19 146:25 165:5 <b>senior (1)</b> 173:4 <b>sent (68)</b> 32:2,5,7 36:16 42:1 42:15,15 44:6 48:7 49:13 53:19 70:1 72:8 92:2 119:19,21 119:22 121:23 125:2 127:9 133:14 135:8 138:21 140:4 143:1,25 147:17,20 147:22 156:11 157:13 164:7,9 167:25 176:24 188:13 201:12,13 201:15,16 203:14 203:17,25 204:11 216:9 221:14 229:1 236:17,19,21 237:21 239:12 240:7,9 242:19 246:11 247:10,12 248:4 253:7 259:5 275:13 276:17 277:1,7 278:24,25 279:11 <b>sentence (16)</b></p>	<p>34:15 56:1 76:24 78:25 89:11,15 103:17 113:18 144:16 160:18 209:17 243:13 258:15 264:4 276:19,21 <b>separate (1)</b> 92:17 <b>September (20)</b> 55:15,16 70:1,13 71:4 72:11 73:7,9 76:10 84:24 166:10 237:13,17 240:6 242:13 251:24 252:11 253:25 254:20 276:22 <b>sequel (2)</b> 86:25 87:19 <b>Service (1)</b> 26:1 <b>serving (1)</b> 216:18 <b>session (3)</b> 23:25 141:2 215:1 <b>Sessions (3)</b> 157:13 158:1 159:11 <b>set (3)</b> 96:21 290:8,20 <b>setting (1)</b> 262:10 <b>share (1)</b> 25:5 <b>sharing (1)</b> 189:4 <b>Sharpe (2)</b> 116:18 120:9 <b>Shawna (12)</b> 29:17 32:25 50:19 118:23 121:11 148:8 149:11 150:13 166:3 195:22 220:25 257:22 <b>sheet (3)</b> 253:12,15 291:1 <b>sheet(s) (1)</b> 289:13 <b>short (3)</b> 56:21 168:11 258:4 <b>shorthand (1)</b> 157:12 <b>show (7)</b> 23:11 162:18 167:24 171:17 257:12 273:13 287:22</p>	<p><b>showed (3)</b> 165:15 217:23 263:6 <b>showing (3)</b> 20:6 35:13 134:6 <b>shows (6)</b> 39:2 47:9 102:23 183:4 185:1 258:15 <b>side (7)</b> 26:8 72:19 103:6,17 113:11 118:9 205:16 <b>sign (1)</b> 41:5 <b>signature (6)</b> 41:16 173:6 254:19 261:21 290:14 291:21 <b>signed (2)</b> 32:25 158:7 <b>significance (1)</b> 256:25 <b>significant (1)</b> 145:9 <b>similar (5)</b> 36:16 161:25 170:24 220:11,13 <b>simply (7)</b> 108:25 109:16 146:1 202:17 228:1 247:19 273:13 <b>single (3)</b> 103:18 193:2 246:8 <b>sir (2)</b> 265:22 283:6 <b>siren (1)</b> 90:20 <b>site (1)</b> 111:19 <b>sitting (2)</b> 195:7 212:7 <b>six-plus (1)</b> 246:8 <b>Skadden (2)</b> 2:10 3:4 <b>Slate (2)</b> 2:10 3:4 <b>slogan (1)</b> 87:8 <b>small (5)</b> 76:19 84:8 88:7 177:21 186:10 <b>smaller (1)</b> 186:8 <b>snail (1)</b> 223:16 <b>Sneed (1)</b></p>
--	--	---	--	---

265:5 <b>Sneed's (1)</b> 265:15 <b>so-called (2)</b> 237:11 267:11 <b>Social (5)</b> 86:3,9 196:17,18 270:5 <b>software (1)</b> 79:19 <b>solid (1)</b> 108:2 <b>Solutions (1)</b> 103:3 <b>someone's (1)</b> 276:6 <b>soon (1)</b> 151:22 <b>sooner (2)</b> 212:10 266:11 <b>sorry (15)</b> 15:11 66:13 90:20 92:5 100:3 113:9 118:25 188:5,10 196:18 199:2 205:25 208:8 242:6 260:15 <b>sort (5)</b> 12:8 22:16 24:14 71:8 236:1 <b>sound (1)</b> 204:17 <b>sounds (17)</b> 44:3 70:14 81:25 86:11 91:8 112:22 129:15 142:18 153:23 155:2 180:20 189:21 194:2 204:18 212:15 218:11 219:13 <b>source (1)</b> 34:18 <b>Southern (3)</b> 196:15,15 270:5 <b>Spaces (7)</b> 158:22 159:5 227:12 227:15 228:8,21 231:24 <b>Spakovsky (2)</b> 286:24,25 <b>speak (4)</b> 19:15 156:5 168:16 184:13 <b>speaking (10)</b> 18:17 19:22 30:4,6	149:22 197:6 199:21 200:1 218:25 278:3 <b>speaks (11)</b> 34:25 38:4 39:5 52:13 88:16 103:1 114:10 231:13 275:20 277:17 278:21 <b>specialist (2)</b> 3:20 9:18 <b>specific (8)</b> 13:12 18:14,15 136:2 139:14 140:5 150:12 217:16 <b>specifically (14)</b> 12:1 68:7 69:4 102:7 117:8 133:10 136:23 137:16 160:13 165:11 169:17 198:6 217:1 236:5 <b>specifics (2)</b> 171:7 235:20 <b>specifies (1)</b> 152:11 <b>speculating (1)</b> 132:21 <b>speculation (2)</b> 170:18 269:17 <b>speech (1)</b> 30:2 <b>speed (1)</b> 273:14 <b>spoke (5)</b> 16:5,13 150:13 197:25 198:14 <b>spreadsheet (1)</b> 275:10 <b>stack (2)</b> 31:18,20 <b>Stafford (4)</b> 221:3,7,11 222:18 <b>Stakes (1)</b> 107:21 <b>stamp (2)</b> 123:15 124:8 <b>stamped (1)</b> 254:24 <b>stand (1)</b> 115:23 <b>stands (1)</b> 115:25 <b>start (4)</b> 9:5 151:12 256:14 275:22 <b>started (3)</b>	70:12 74:8 252:12 <b>Starting (1)</b> 44:8 <b>starts (1)</b> 33:11 <b>state (11)</b> 10:11 34:19 75:12 103:8 107:23 190:8 190:12 191:18 249:15 251:5 283:11 <b>stated (11)</b> 35:17 81:11 208:15 221:15,19 233:13 248:15 276:9 281:14,18,23 <b>statement (7)</b> 160:23 161:3 199:17 207:15 210:9 241:18 287:12 <b>statements (2)</b> 230:23 283:15 <b>states (49)</b> 1:1 9:10 18:19 25:4 37:18,25 38:12 50:22 51:14,21 52:3 54:17,20,22 55:8,23 56:1 80:10,11 81:16 82:7 83:1 88:1,13 88:19 89:20 95:19 97:8 107:22 116:22 122:22 147:15 157:23,24 158:11 159:15 249:1,10 250:7 254:17 261:15 262:5,14 263:12 272:16 274:25 275:9 287:13,14 <b>statewide (16)</b> 88:14 91:12,15,17,20 186:11,15 187:23 189:13 236:17 237:19,25 244:20 245:14 259:5 276:24 <b>stating (2)</b> 233:10 237:16 <b>station (1)</b> 167:11 <b>status (26)</b> 239:5 258:17,19,24 259:8,12,24 260:2 261:3,6 266:15,21 267:6 268:15 274:3 274:11 275:12	276:3,18 277:15 278:11,14,17 279:4 279:7,9 <b>statute (2)</b> 119:8 230:23 <b>statutes (1)</b> 168:22 <b>steer (1)</b> 226:16 <b>step (1)</b> 130:19 <b>Steve (2)</b> 137:8,13 <b>stipulations (1)</b> 2:13 <b>stop (1)</b> 196:24 <b>stopping (1)</b> 56:17 <b>Street (1)</b> 3:13 <b>strike (17)</b> 21:20 66:23 100:5 101:7 106:14 117:5 132:25 138:19 157:21 161:2 175:1 185:19 188:5 196:7 210:11 246:5 286:24 <b>string (26)</b> 4:15,17,19,21 5:6,16 5:18,20,22,24 6:4,8 6:10,14,16,18,20,22 6:24 7:6,8,10,12,18 7:22,24 <b>subject (16)</b> 2:13 73:12 121:14 141:15 143:16 157:10 164:12 168:2 182:10 214:18 221:3 236:2 246:21 257:8 259:21 260:25 <b>submitted (1)</b> 113:14 <b>subordinates (1)</b> 22:8 <b>SUBSCRIBED (2)</b> 289:15 291:22 <b>subsequent (6)</b> 50:7 126:21 140:8 230:22 248:13 284:11 <b>subsequently (4)</b> 195:9 248:3 258:21 283:4	<b>sued (1)</b> 227:1 <b>sufficient (5)</b> 241:7 279:16,21 280:14,21 <b>suggest (3)</b> 68:14 69:6 136:12 <b>suggested (5)</b> 68:12 220:14 222:4 235:9 276:5 <b>suggesting (2)</b> 133:8 234:1 <b>suggestion (1)</b> 222:10 <b>suggests (2)</b> 136:1,8 <b>summary (7)</b> 76:15 89:19 94:9,19 166:20,21,25 <b>Sunday (3)</b> 73:13,20,22 <b>supervised (1)</b> 24:6 <b>supervising (1)</b> 218:25 <b>supervisory (2)</b> 22:18,21 <b>support (2)</b> 26:21 152:7 <b>supports (1)</b> 27:3 <b>suppose (1)</b> 188:22 <b>supposed (5)</b> 41:18 42:15 43:10,15 209:16 <b>sure (27)</b> 10:25 11:15 36:12 40:1 46:15 68:13 74:13 91:16 103:21 130:17 139:3 140:10 169:7 170:10 187:2 192:12 202:3 215:3 217:25 218:7,13 225:7 227:10 233:12 236:9 251:14 252:20 <b>surprised (7)</b> 212:10 266:10 269:8 269:11,12,13,18 <b>surveyed (1)</b> 113:13 <b>swarming (1)</b> 222:4 <b>swift (3)</b>
--	--	--	--	---

103:21,24 104:6 <b>sworn (8)</b> 10:3 117:15 277:23 283:15 287:11 289:15 290:9 291:22 <b>system (10)</b> 79:16,18 108:3 237:20 238:1 248:5 271:21 276:25 280:12,14	<b>targeting (2)</b> 267:12,16 <b>task (3)</b> 103:12 142:12,25 <b>tasks (1)</b> 19:12 <b>tax (1)</b> 269:3 <b>tax-exempt (4)</b> 266:15,21 267:6 268:15 <b>technically (1)</b> 263:24 <b>telephone (4)</b> 19:16 82:22 95:16 97:5 <b>television (2)</b> 167:6 169:5 <b>tell (13)</b> 14:22,25 57:25 69:2 136:10 174:24 178:18 236:22 274:9,14 276:6,10 284:22 <b>telling (11)</b> 15:4,13 101:21 105:25 137:23 138:3,7 184:17 197:13,21 264:12 <b>tells (1)</b> 276:16 <b>ten (1)</b> 194:7 <b>Tepe (273)</b> 3:7 4:4,6 10:6,10 16:9 16:23,25 18:22 20:19,22 21:16 25:15 26:20 27:1,2 27:11,19 28:1,12,14 30:10,20 31:6,14 35:3,11 38:6,21 39:7,14 41:13 42:7 42:17 46:12,21 48:19 49:21 52:15 53:8 56:20,22 58:11 58:12 59:20,21 67:3 67:10,20,25 68:18 68:23 69:10,20 70:20 71:13,25 72:18,20 74:11 75:4 83:10 85:6,10 92:25 95:8,10 97:23 98:6 99:9 100:5,6 105:9 105:16 106:12,19 106:25 107:10 108:22 109:9,15	111:6,21 115:17,25 116:4 117:5,6,18,19 118:1,13 121:5 122:12 124:23 126:9,15 127:11,19 127:23 128:5,24 132:23 133:20 136:24 138:6 140:9 141:7 142:8 143:6 146:2,9 148:22 150:23 153:17 154:15 155:9 157:2 163:16,22 165:19 165:23 167:18,21 170:23 171:22 174:16 175:9,18,24 176:3,9,13,22 180:16 181:3,20 184:3,9,16,24 186:1 186:24 187:17 191:24 192:10,22 194:8,15 195:13 197:5,23 199:21,25 200:5,18 202:2,4,7 202:9,20 204:21 206:11 209:15 210:6 211:6,12,25 212:20,23 213:6,13 214:4 219:4,8,14 220:4,12,18 223:7 225:2,11 226:19,24 228:7,13 230:6 231:15 232:6 235:4 235:7,15,17 236:7 236:15 237:5 239:23 242:2 243:23 244:14 245:4,7 246:19 247:24 248:8,17 249:2,11,18 250:10 250:20 251:2,7,17 251:21 252:8,21,25 253:18 256:6,9 257:3,9,20,24 258:2 258:6 259:2,18 260:22 262:7,11,19 263:13 264:14,22 265:18 266:6,16,23 267:8,18,25 268:11 269:4,16 270:14,21 271:4,24 272:7,15 272:24 273:21 274:13,20 275:5,17 275:19,22,23 276:12 277:20 278:1,8,23 280:23	281:4,16 285:19 286:12 287:7,18 <b>Teresa (1)</b> 61:23 <b>term (5)</b> 69:5 79:11 211:7 220:7 267:17 <b>terminology (3)</b> 230:20 231:5,10 <b>terms (7)</b> 18:24 19:17 168:16 168:20 181:8 201:11 230:18 <b>testified (11)</b> 10:16 11:2 68:1 151:3 187:22 202:9 215:8 218:24 235:25 280:5 282:22 <b>testify (6)</b> 10:4 202:5,6,7 232:18 232:22 <b>testifying (1)</b> 265:17 <b>testimony (41)</b> 11:9 14:2,5,12 16:8 23:19 42:12 51:11 77:2 106:7 117:15 133:13,17 141:25 142:3 161:17 175:7 176:2 177:6 194:12 202:19 214:12 217:18 219:13 232:15 234:17,18 234:19,20,22,24 235:8,19,22 252:9 277:23 278:2 279:15 289:4,6 290:10 <b>Texas (3)</b> 160:12 168:3,8 <b>text (1)</b> 131:4 <b>thank (7)</b> 67:4 149:22 251:21 254:5 255:9 275:2 288:4 <b>thanking (1)</b> 245:17 <b>Thanks (1)</b> 151:23 <b>theory (1)</b> 108:12 <b>thing (9)</b> 11:17 12:10 35:1 59:14 166:20 175:20 200:11	205:12 226:1 <b>things (7)</b> 15:14 56:18 124:25 169:8 197:14,22 273:14 <b>think (79)</b> 15:1 16:19 22:3 23:9 23:25 24:6 28:2 31:1,2 33:10 35:1 35:10,21 36:2 46:22 47:3 52:12 55:14 67:2,14 68:8,12 72:6 79:10,25 85:3 88:16 92:14 96:23 96:24 103:1 114:10 129:20 130:13,22 132:20 138:24 139:11 151:10 154:20 160:12 161:13 162:7 164:1 166:23 170:9 177:14 180:5 181:4 181:10 183:4,18 184:22 185:17 191:15,21 193:17 203:10 207:16 211:23 212:2,11 215:9 217:5 218:5 218:17 220:23 221:12 224:24 225:17 229:19 231:12 233:2 234:3 234:25 243:20 260:9 270:2 278:20 <b>thinking (2)</b> 52:14 68:19 <b>thinks (1)</b> 205:16 <b>third (7)</b> 86:16 88:18 103:16 113:11 121:23 147:4 258:14 <b>thought (3)</b> 123:5 128:19 142:10 <b>thousands (1)</b> 110:25 <b>three (5)</b> 40:4 85:22,24 229:15 271:17 <b>threshold (1)</b> 187:6 <b>Thursday (1)</b> 269:22 <b>Tierney (1)</b> 265:5 <b>time (77)</b>
--	---	---	--	--

12:9 17:25 29:1 30:16 31:8,11 36:12 47:25 48:6,8 53:15 67:6,9 77:18 79:10 83:4 92:6,7,17 93:2 95:22 97:11 98:7 117:25 118:2 119:5 119:10 123:6 124:14,24 127:22 128:1,4 129:16 130:3 131:8,24 132:6 133:7 134:8 134:17 140:13 141:6 146:5,8 169:21,22 170:11 180:20 186:22 188:2 190:4 191:11 207:17,19 212:18 213:9,12 216:9 231:7 236:11,14 243:21,25 258:8,11 258:18 259:10 260:1 261:5 265:20 271:1 280:1 282:1,3 284:12 288:8	121:17 128:14 145:22 149:6 166:2 172:5 224:4 229:14 255:13 266:9	<b>truth (1)</b> 264:12 <b>truthful (1)</b> 11:9 <b>try (10)</b> 17:13 66:13 83:11,14 96:9,13 98:22 99:1 131:21 225:3 <b>trying (12)</b> 57:20 68:14 69:5 74:23 83:17 101:6,9 176:19 190:3 214:25 218:19 226:20 <b>TSG (2)</b> 9:17,20 <b>Tucker (6)</b> 171:17 172:9,18 173:4,10 178:1 <b>Tucker's (1)</b> 172:13 <b>Tuesday (6)</b> 172:19 173:9 180:19 180:23 181:5 260:19 <b>turn (1)</b> 164:16 <b>turnkey (3)</b> 101:22 106:1 153:25 <b>TV (3)</b> 165:9,13 171:3 <b>Twitter (3)</b> 169:10,11 171:10 <b>two (30)</b> 22:3 30:3 33:22 36:19 40:5 41:7,12 45:2 70:2,4 92:16 98:23 109:20,22,23 113:19 123:20 124:11,25 125:17 125:20 129:13 158:10 187:23 188:1 200:4 224:9 239:11 284:7 286:8	38:2,15 43:8 56:12 78:17 95:24 97:13 98:9 113:15 129:19 129:22 131:1 147:8 147:11 150:19 151:6,21 155:17 156:13 158:1 159:25 160:5,11,15 193:7,14,19 268:23 281:24 282:11 <b>Uh-huh (2)</b> 19:14 223:20 <b>ultimately (1)</b> 215:8 <b>unavailable (1)</b> 232:20 <b>unclear (1)</b> 211:10 <b>uncovered (1)</b> 164:18 <b>undefined (2)</b> 26:24 115:14 <b>underestimate (2)</b> 159:23 160:19 <b>underneath (2)</b> 44:13 254:19 <b>undersigned (1)</b> 289:16 <b>understand (42)</b> 11:5 40:15 41:15 42:23 43:22 48:10 69:9 73:17 89:5 91:16 103:24 104:2 123:2,7,8 129:17 132:5,11 141:8,10 152:5 168:14,17,19 175:15,24 176:19 185:6 191:7 209:17 209:19,21 216:8,15 217:18 225:8 238:2 248:6,10,21 272:11 283:14 <b>Understandably (1)</b> 192:19 <b>understanding (27)</b> 79:21 126:5 132:10 153:2 174:25 176:15 178:15,19 178:22 179:17 182:25 186:4 210:19 211:19 212:3 222:13 249:14 250:6,12,14 250:22 258:25 259:4 263:15 272:19 273:1	279:15 <b>understood (11)</b> 74:1 131:24 153:15 153:18 167:4 175:21 179:14,16 191:10 197:4 262:23 <b>undertaken (1)</b> 18:15 <b>underway (1)</b> 11:11 <b>unfortunately (2)</b> 206:20 261:23 <b>Uniformed (1)</b> 130:16 <b>Union (1)</b> 21:15 <b>unique (1)</b> 131:7 <b>United (24)</b> 1:1,6 9:8,10 51:21 52:2 54:22 55:8 80:11 82:25 95:19 97:8 116:22 147:15 248:25 249:10 250:7 254:17 261:15 262:5,14 263:12 287:13,14 <b>universe (1)</b> 170:22 <b>unveiled (1)</b> 165:13 <b>unwavering (3)</b> 103:21 104:8,9 <b>UOCAVA (2)</b> 130:14,15 <b>upcoming (1)</b> 226:2 <b>updated (2)</b> 207:6 231:20 <b>uploaded (6)</b> 73:19,21 99:3,16,19 111:12 <b>uploading (1)</b> 99:20 <b>upper (3)</b> 55:12 256:3,13 <b>upside-down (1)</b> 254:4 <b>urgency (8)</b> 134:20,23 135:18,24 136:10 138:5,8,12 <b>urging (1)</b> 158:1 <b>use (11)</b> 17:9 19:15 69:5
<b>timely (2)</b> 54:21 55:7 <b>timing (2)</b> 136:22 218:5 <b>tiptoe (2)</b> 225:3 226:4 <b>title (5)</b> 17:21,22 54:10 69:3 75:21 <b>today (11)</b> 11:6,9 13:19 14:7 16:20 17:9 133:10 155:17 157:25 212:8 265:25 <b>today's (6)</b> 12:15,23 15:16 16:5 16:13 17:2 <b>told (9)</b> 13:22,24 15:9,10,16 136:1,5 197:25 198:12 <b>tolerate (1)</b> 158:15 <b>Tomlinson (2)</b> 62:14 65:13 <b>Tonight (1)</b> 173:5 <b>top (18)</b> 31:18 44:12 47:16 50:9 75:25 92:15 103:2 118:25	<b>topic (1)</b> 128:6 <b>total (10)</b> 46:1 57:7 66:7 78:4 78:11 183:17,18,20 183:22 188:12 <b>totaled (1)</b> 77:19 <b>totals (1)</b> 77:17 <b>touching (1)</b> 20:6 <b>Toussaint (2)</b> 61:7 65:5 <b>town (1)</b> 110:3 <b>transact (3)</b> 19:7,10,18 <b>transcript (3)</b> 106:7 219:10 290:15 <b>transcription (1)</b> 289:5 <b>transmits (3)</b> 40:19,20 180:6 <b>transmitted (2)</b> 43:25 160:10 <b>transmitting (1)</b> 237:11 <b>transpired (1)</b> 15:14 <b>Travis (2)</b> 170:3,5 <b>trial (2)</b> 10:23,24 <b>triggered (1)</b> 283:9 <b>triggers (1)</b> 44:1 <b>troubled (4)</b> 128:8 130:9,12,13 <b>true (13)</b> 35:19 115:7 123:8 127:2 210:9,12 220:15 264:18,23 268:2 287:12 289:5 290:10 <b>truly (1)</b> 41:1 <b>Trump's (2)</b> 136:17 137:19 <b>trusted (1)</b> 23:18	<b>type (8)</b> 44:22 45:1,9 57:3 92:19 244:16,22 255:24 <b>types (6)</b> 18:11 29:9 45:3,10,21 250:16 <b>typically (3)</b> 69:9 161:9,15 <hr/> <b>U</b> <hr/> <b>U.S (30)</b>	<b>understandably (1)</b> 192:19 <b>understanding (27)</b> 79:21 126:5 132:10 153:2 174:25 176:15 178:15,19 178:22 179:17 182:25 186:4 210:19 211:19 212:3 222:13 249:14 250:6,12,14 250:22 258:25 259:4 263:15 272:19 273:1	<b>universe (1)</b> 170:22 <b>unveiled (1)</b> 165:13 <b>unwavering (3)</b> 103:21 104:8,9 <b>UOCAVA (2)</b> 130:14,15 <b>upcoming (1)</b> 226:2 <b>updated (2)</b> 207:6 231:20 <b>uploaded (6)</b> 73:19,21 99:3,16,19 111:12 <b>uploading (1)</b> 99:20 <b>upper (3)</b> 55:12 256:3,13 <b>upside-down (1)</b> 254:4 <b>urgency (8)</b> 134:20,23 135:18,24 136:10 138:5,8,12 <b>urging (1)</b> 158:1 <b>use (11)</b> 17:9 19:15 69:5

102:16 105:22 168:20 191:4 220:7 230:18 253:15 267:17 <b>useful (3)</b> 239:18 240:12 241:11 <b>uses (3)</b> 79:19 86:12 105:8 <b>usually (3)</b> 12:7 136:4 161:10	91:13,18,20 92:18 96:4,6 97:18,22 98:19 100:20,21,25 101:4 119:7,12,16 130:1,20 140:5 153:5,9 183:19,21 184:2 187:23 188:13 189:13,25 190:14,24 198:17 203:25 204:7,11 208:11,16 211:14 227:1 231:18,25 234:5 236:17,19,23 238:1,9,15,16 239:7 240:21 241:24 244:2,4,6,19,20 245:14 246:16,16 259:5 260:4,13 271:21 272:1 280:2 280:6,8,12,14 282:16,20 283:1 285:12 <b>VERIS-generated (1)</b> 92:24 <b>version (14)</b> 36:1 57:16 75:14 86:2 86:8,13,16,21 157:19 166:14 195:6,6 206:5,7 <b>versions (2)</b> 85:23,24 <b>video (3)</b> 3:20 9:18,24 <b>VIDEOGRAPHER...</b> 9:5 31:7,10 67:5,8 127:25 128:3 140:12 141:5 146:4 146:7 213:8,11 236:10,13 258:7,10 286:10 288:6 <b>videotaped (3)</b> 1:16 2:9 9:6 <b>view (1)</b> 269:7 <b>viewed (1)</b> 181:15 <b>viewers (1)</b> 187:13 <b>viewership (1)</b> 181:13 <b>viewpoint (1)</b> 30:23 <b>violated (1)</b> 268:14 <b>Virginia (95)</b> 1:2 9:11 19:4,8 21:14	23:24 24:18 36:9,17 42:21 43:4 45:4 50:7,15 54:24 55:5 68:15 71:10,15 75:11,22 76:3,7,19 79:19 80:11 84:8 87:1,5,5,8,14 88:3 88:15 90:16,17 92:2 119:5 126:20 127:5 127:10,12 139:18 141:19 147:9,12 160:16 162:16 164:14 182:23 187:24 188:7 190:15 191:18 201:4 207:8 208:5 208:10,23 209:7,12 209:18 213:19 220:2 221:16 222:10,19,25 223:1 223:17,24 224:11 224:16 226:3,18,21 227:9 229:14 230:13 232:17 236:16,18 248:6 250:9 251:1 253:12 255:14 257:14 262:23 271:23 277:24 283:11 287:11,15 <b>Virginia's (4)</b> 89:23 164:20 199:2,3 <b>virtually (3)</b> 101:24 106:3 154:2 <b>visiting (1)</b> 139:8 <b>visitor (1)</b> 169:24 <b>visitors (2)</b> 170:1,16 <b>visits (1)</b> 169:19 <b>voluntarily (1)</b> 192:21 <b>volunteer (1)</b> 17:3 <b>volunteered (1)</b> 257:4 <b>von (2)</b> 286:24,25 <b>vote (17)</b> 51:23 76:21 78:16 81:6,12 84:16 104:18 107:25 131:1 164:19 165:1 216:21 247:23	262:25 263:4 268:2 285:3 <b>voted (3)</b> 90:11 179:1,3 <b>voter (125)</b> 18:18 20:6 23:8 33:14 33:15,19 37:5 42:19 42:24 43:3,6,16 44:18 51:16 53:19 54:5,10,16,18 56:2 56:3 58:17 81:17,23 82:17 84:11 86:17 88:4,21 89:22 94:21 95:11 96:18 98:12 98:17,19 103:9,10 103:19 111:23 112:11,23 113:13 113:21 114:3,20 115:2 116:25 117:9 118:3 120:1 121:24 125:1,23,25 127:3 130:17 135:19 136:17 137:20 139:23 142:10 144:17,22 145:5,8 149:25 151:19,20 153:22 158:16,23 164:13 174:2,5 177:7,13 186:4 195:1,8 199:11 200:9 204:13 205:17 206:3 207:2 207:10 208:22 209:25 210:10,12 210:15,25 214:21 227:17,20 237:20 237:25 238:22,23 243:5,15 249:9,16 253:14 254:11,14 261:24,25 262:3,23 263:10,11,25 264:6 264:20 276:24 281:5,19,20,24 282:2,4,21 283:3 <b>voter's (1)</b> 248:7 <b>voters (26)</b> 21:14 34:3 53:11,20 55:18 76:3,7 87:14 90:16,17 119:20,22 121:1 122:23 126:23 127:1 164:25 182:23 241:3 263:6 272:13 274:10,17 275:12 284:21 287:12	<b>votes (1)</b> 90:7 <b>voting (13)</b> 75:23 84:9 87:1 89:23 103:10 141:15 142:10 164:20 226:13 227:18 229:17,24 249:16 <b>vs (1)</b> 1:9 <b>VVA (14)</b> 8:7,8,9 87:20 90:25 91:9 134:25 137:1 196:2 245:6 252:22 258:13 273:12 286:14
<b>v (1)</b> 9:9 <b>Va (2)</b> 121:15 221:3 <b>vague (8)</b> 27:15 55:15 117:25 136:21 220:6 257:3 257:9 259:3 <b>vaguely (8)</b> 102:1 135:25 137:5 157:7 165:14 167:15 183:14 223:14 <b>value (1)</b> 161:20 <b>Vanderhulst (5)</b> 29:19 73:12 212:9 213:5 266:10 <b>variety (1)</b> 45:20 <b>various (7)</b> 18:19 163:1 169:15 216:10 234:18 253:12 268:7 <b>varying (1)</b> 163:1 <b>vast (1)</b> 112:23 <b>Vehicles (2)</b> 34:18 42:4 <b>verbal (1)</b> 11:18 <b>verbatim (1)</b> 37:13 <b>verification (1)</b> 15:24 <b>verified (1)</b> 88:8 <b>verify (4)</b> 130:14 131:21 133:15 191:22 <b>VERIS (81)</b> 15:25 79:8,13,16,18 81:18 83:4 89:9				<b>wait (2)</b> 11:20 74:19 <b>Walt (1)</b> 121:10 <b>waltlatham@yorkc...</b> 118:22 <b>want (26)</b> 12:9 58:25 59:25 60:7 60:15,23 62:4,18 75:15 102:16 115:20 116:6 127:19 128:11 142:15 173:8 176:18 192:5 205:11 223:16 236:7 252:20 254:8 267:2 283:17 285:15 <b>wanted (19)</b> 136:16 137:24 178:1 178:21,23 186:19 190:6,13,14 226:11 244:3,18,20,24 280:6,8,24 281:2 287:11 <b>wanting (1)</b> 137:18 <b>wants (1)</b> 174:10 <b>Washington (7)</b> 1:17 2:11 3:6,14 9:14 190:22,25 <b>wasn't (12)</b> 16:23 35:4 53:2 115:6 126:19 131:14 132:15 179:17 201:3,12 211:3 280:14



<b>way (16)</b> 19:18 31:2 39:23 40:15 43:2,5 73:6 131:10 181:2 188:9 188:11 191:22 253:16 281:12 283:5 290:18 <b>ways (1)</b> 42:22 <b>we'll (4)</b> 53:22 56:20 75:12 167:4 <b>we're (9)</b> 11:15,21 58:16 59:13 67:20,21 86:20 116:17 146:10 <b>we've (8)</b> 48:21 49:3 184:14 214:25 235:5,12 238:8 244:11 <b>weaponize (2)</b> 182:14 183:2 <b>website (18)</b> 7:4 73:20,22 75:13 85:18 86:1 99:4,17 99:19,21 169:20,23 170:2,16 206:5,16 211:21 265:13 <b>week (3)</b> 74:2,10 215:2 <b>weeks (6)</b> 41:7,12 123:20 124:11 129:13 160:1 <b>weight (1)</b> 162:5 <b>Welcome (1)</b> 87:4 <b>went (2)</b> 123:24 221:16 <b>weren't (1)</b> 165:9 <b>Western (1)</b> 147:11 <b>Wheeler (3)</b> 14:13,20 15:15 <b>WHEREOF (1)</b> 290:20 <b>whichever (1)</b> 72:19 <b>White (1)</b> 32:20 <b>widely (1)</b> 163:11 <b>wife (1)</b> 13:22	<b>William (44)</b> 31:23 32:18,21 34:8 34:22 35:6 36:24 37:18,19 38:1,9,15 39:9,12,15,19,21 40:6,11 41:22 44:6 44:13 45:23 46:7 47:10 48:6 49:6 57:4 77:5,23 78:14 79:7,9 80:3,6,13 81:16,23 82:8 93:12 100:20 130:20 153:9 255:3 <b>willing (1)</b> 115:11 <b>Wilson (2)</b> 63:3 65:17 <b>wind (1)</b> 266:4 <b>window (1)</b> 56:3 <b>wing (1)</b> 266:4 <b>Wisconsin (1)</b> 23:8 <b>withdrawn (1)</b> 115:24 <b>witness (174)</b> 2:18 4:2 18:17 20:20 21:9,12,13 26:19 27:10,23 30:8 35:1 35:10 38:5 39:4,11 41:11,25 42:13 46:11,19 48:16 52:12 53:5 59:3,12 60:2,8,17,24 61:5 61:13,22 62:5,12,19 63:2,10,17,23 64:6 64:13 68:17,22 69:8 71:12 72:16 74:6 83:8 92:23 95:9 97:21 105:7,14 106:10,23 107:8 108:19 109:7,13 111:3,17 115:15,22 116:1 124:21 126:4 126:13 127:9,17 132:20 133:18 136:20 138:3 140:10 142:3 153:15 155:7 163:14 165:20 167:19 170:19 174:13 175:7,8 180:13 181:1 184:1 184:8,14,22 185:25	186:22 191:21 192:8,15,16,19 194:6,13 197:3,18 200:16 202:3 209:10 210:5 211:11,23 212:15 219:12 220:8 224:24 225:7 226:11,23 228:5 231:7 243:20 244:10 245:4 248:1 248:10,18 249:3,12 249:20 250:11,21 251:3,8 252:10 253:19 257:4,10 259:4,20 260:24 262:13,20 263:15 264:16,23 265:12 265:19 266:7,18,25 267:10,20 268:1,13 269:18 270:22 271:5,25 272:8,16 272:25 273:22 274:14,21 276:9 278:5,20 280:20 281:2,12 285:17 286:6 287:20 289:16 290:7,11,20 <b>witness's (4)</b> 16:8 42:11 106:6 133:17 <b>wondered (1)</b> 216:1 <b>word (9)</b> 17:9 25:24 69:9 86:14 189:20 229:19 248:7 284:3,10 <b>words (4)</b> 40:4,5 198:6 248:6 <b>work (9)</b> 18:24 22:4,20 29:11 29:24 90:25 91:3 214:21 227:11 <b>worked (8)</b> 29:10 30:12 91:10 159:10 266:13,20 267:4,5 <b>working (7)</b> 28:17 30:12 170:11 215:3 218:13 221:18,20 <b>works (6)</b> 19:4 27:7,10,12 140:11 265:10 <b>world (3)</b> 99:22 109:5,8	<b>worried (1)</b> 152:22 <b>worse (1)</b> 107:22 <b>wouldn't (5)</b> 27:6 104:16 244:10 267:2 276:6 <b>Wright (2)</b> 61:23 65:9 <b>write (5)</b> 48:20 68:6 143:23 200:19 247:7 <b>writes (4)</b> 137:17 166:13 214:20 221:10 <b>writing (2)</b> 33:12 74:9 <b>written (12)</b> 19:17,25 20:1,5 73:1 74:7 118:22 137:19 137:25 207:19 230:10 232:15 <b>wrong (1)</b> 202:17 <b>wrote (24)</b> 24:12 69:11 73:23 130:8 135:15 153:24 155:16 168:5 173:8 184:25 189:22 195:25 200:24 208:1 222:3 223:15 226:1 231:8 240:11 241:14 243:1 246:4 251:19 270:1 <hr/> <b>X</b> <hr/> <b>x (2)</b> 64:17 290:15 <hr/> <b>Y</b> <hr/> <b>yeah (27)</b> 30:9 37:13 49:15 53:22 56:20 67:15 67:18 72:18 95:2 113:9 147:2,10 154:20 155:7 161:21 172:24 189:20 195:17 207:1 214:10 218:11 225:17 228:20 252:25 258:2 276:21 283:10 <b>years (1)</b> 246:9	<b>yesterday (3)</b> 13:2 149:23 206:22 <b>yielded (1)</b> 90:18 <b>York (15)</b> 2:11 3:5 9:14 119:11 119:19 121:15 124:6 203:14,22 209:18,19 271:15 272:11,20,22 <hr/> <b>Z</b> <hr/> <b>0</b> <hr/> <b>00050 (1)</b> 261:10 <b>059 (1)</b> 255:15 <hr/> <b>1</b> <hr/> <b>1 (35)</b> 4:12 9:6 28:10,13 37:21 46:3 79:3,6 79:22,24,24 80:18 80:20 83:21,25 87:22 88:19 91:23 92:11,13,17,19,20 93:12,23,24 98:16 104:25 139:17 150:1 189:14 199:7 200:22 203:2 208:16 <b>1/1/2011 (1)</b> 256:14 <b>1:17 (2)</b> 141:3,6 <b>1:18cv-00423 (1)</b> 1:8 <b>1:18cv423 (1)</b> 9:12 <b>1:24 (1)</b> 146:5 <b>1:25 (1)</b> 190:19 <b>1:30 (1)</b> 146:8 <b>1:57 (1)</b> 190:21 <b>10 (9)</b> 4:4 5:7 75:2,6 128:11 128:13 253:23 254:6,7 <b>10:04 (1)</b> 258:14 <b>10:06 (1)</b> 269:22
--	--	--	--	--

<b>10:18 (1)</b> 67:6	<b>12:46 (1)</b> 140:13	245:10	<b>187 (1)</b> 6:19	167:25 182:7
<b>10:40 (1)</b> 67:9	<b>120 (2)</b> 89:23 93:18	<b>143 (1)</b> 5:21	<b>18th (1)</b> 50:18	214:12 221:1
<b>100 (6)</b> 68:13 93:22,25 255:19,20 259:16	<b>120-some-odd (1)</b> 100:25	<b>1440 (3)</b> 2:11 3:5 9:13	<b>19 (6)</b> 6:3 129:10 150:21,25 247:15,19	237:13,17 251:24 253:7,25 271:18 272:10
<b>1000 (9)</b> 88:3 164:12,19 182:22 183:10,19 185:7 186:25 187:5	<b>121 (1)</b> 5:15	<b>148 (1)</b> 5:23	<b>195 (1)</b> 6:21	<b>2017 (34)</b> 23:11 85:3 87:17 129:11 134:17,21 135:9 136:15 137:8 143:18 146:19 149:5 150:1 172:16 176:23 189:15 191:17 193:6 195:21 205:13 223:16 225:23 226:21 245:12 252:19 256:3 257:23 258:13 260:19 273:7,9,13 273:16,20
<b>1046 (9)</b> 76:21,25 77:10,17,19 81:1,5,8,12	<b>122 (1)</b> 5:17	<b>15 (8)</b> 5:17 79:1 122:10,14 228:23 245:19 271:12,14	<b>1979 (1)</b> 187:19	
<b>11 (15)</b> 5:9 85:4,9,11 102:16 102:18,19 157:15 195:21 255:8,9 260:5 261:8,23 263:19	<b>1233 (1)</b> 135:3	<b>150 (1)</b> 6:3	<b>1988 (1)</b> 89:2	
<b>11/14/20 (1)</b> 290:24	<b>128 (1)</b> 5:19	<b>154 (1)</b> 6:5	<b>1993 (1)</b> 33:16	
<b>11/15 (1)</b> 221:14	<b>13 (15)</b> 5:13 113:6,8,8,10 114:9 118:11,15 119:1 120:11 124:1 263:19 271:10,13 271:14	<b>156 (1)</b> 6:7	<b>19th (2)</b> 130:8 132:14	
<b>11/16 (1)</b> 221:11	<b>131 (1)</b> 125:14	<b>158968 (1)</b> 1:25	<hr/> <b>2</b> <hr/>	
<b>11:36 (1)</b> 205:13	<b>13118 (1)</b> 122:15	<b>16 (14)</b> 5:19 32:2 46:4 102:11 102:20,22,23 113:12 128:22 129:1 142:16 220:25 237:17 276:22	<b>2 (11)</b> 4:14 31:12,16 76:12 81:2,6,11 89:19 107:18,20 182:6	<b>2018 (6)</b> 157:16 158:21 228:23 269:23 270:17,24
<b>11327 (1)</b> 212:25	<b>13121 (1)</b> 123:10	<b>163 (1)</b> 6:9	<b>2.0 (1)</b> 223:17	<b>2019 (5)</b> 1:18 2:5 9:15 290:21 291:23
<b>118 (1)</b> 5:13	<b>13148 (1)</b> 121:7	<b>165 (1)</b> 6:11	<b>2:59 (1)</b> 213:9	<b>204 (1)</b> 6:23
<b>11th (1)</b> 202:22	<b>13185 (3)</b> 122:3,4 125:13	<b>167 (1)</b> 6:13	<b>20 (5)</b> 6:5 154:13,17 189:15 256:3	<b>206 (1)</b> 7:3
<b>12 (57)</b> 1:18 2:5 5:11 9:15 77:13 85:23 86:2,9 86:13,15,18 94:25 95:3 96:22 99:7,11 102:15,17 112:1,4 114:1,2 116:14 117:1,9 122:7 124:18,22 125:22 125:24,25 127:4,14 139:23,25 195:2 199:12,18 200:7,14 200:20 203:5,23 204:15 205:17 206:5,6,25 207:6 210:14 211:18 255:1 262:17 264:1 269:23 270:17,24	<b>132 (1)</b> 164:20	<b>16737 (1)</b> 237:8	<b>200 (2)</b> 88:8 164:25	<b>21 (4)</b> 6:7 151:14 156:25 157:4
	<b>13234 (1)</b> 118:16	<b>16th (1)</b> 47:12	<b>20005 (2)</b> 3:6 9:15	<b>210 (1)</b> 129:2
	<b>133 (2)</b> 89:23 93:20	<b>17 (11)</b> 5:21 135:9 137:8 143:4,8 146:11,14 273:5,6,7,13	<b>20007 (1)</b> 3:14	<b>212 (1)</b> 7:5
	<b>13324 (3)</b> 120:5 124:3 125:13	<b>171 (1)</b> 6:15	<b>2003 (1)</b> 10:22	<b>214 (1)</b> 7:7
	<b>134 (1)</b> 8:7	<b>17930 (1)</b> 204:24	<b>2008 (2)</b> 254:20 262:4	<b>217 (1)</b> 94:24
	<b>13405 (1)</b> 150:25	<b>17th (1)</b> 137:10	<b>2011 (6)</b> 37:21 46:4 55:16 89:24 150:1 189:14	<b>21st (3)</b> 151:13 154:22 189:18
	<b>13683 (1)</b> 163:24	<b>18 (11)</b> 5:23 66:5,9,14,15 67:1 84:15 148:20 148:24 155:13 230:8	<b>2012 (5)</b> 17:25 28:18 120:11 123:18 124:10	<b>22 (8)</b> 6:9 118:24 150:1 163:20,24 253:7 271:18 272:10
	<b>137 (1)</b> 8:8	<b>181 (1)</b> 6:17	<b>2015 (4)</b> 23:9 81:21 255:1 262:17	<b>220 (1)</b> 7:9
	<b>13th (1)</b> 124:4	<b>1852 (5)</b> 88:25 89:12 90:10,18 91:1	<b>2016 (27)</b> 32:3 46:4 50:19 66:9 66:14 70:1 71:4 73:8 74:24 76:10 84:24 118:24 119:11 121:13 151:14 164:4	<b>223 (1)</b> 7:11
	<b>14 (12)</b> 5:15 53:10 54:4,8,23 81:15 120:25 121:3 121:6 125:13 271:12,14			<b>225 (1)</b> 7:13
<b>12:07 (1)</b> 128:1	<b>14-day (1)</b> 56:3			<b>228 (1)</b> 7:15
<b>12:18 (1)</b> 128:4	<b>1408 (1)</b>			<b>22nd (2)</b>

121:12 122:20 <b>23 (8)</b> 6:11 70:1 123:18 124:10 158:7 159:4 165:17,21 <b>232 (1)</b> 7:17 <b>237 (1)</b> 7:19 <b>239 (1)</b> 7:21 <b>23rd (2)</b> 70:13 124:7 <b>24 (3)</b> 6:13 167:16,20 <b>241 (1)</b> 7:23 <b>245 (1)</b> 8:9 <b>247 (1)</b> 4:5 <b>24th (1)</b> 290:21 <b>25 (3)</b> 6:15 171:20,24 <b>250 (1)</b> 228:16 <b>253 (1)</b> 8:3 <b>258 (6)</b> 94:11,12 260:7,15,16 260:17 <b>26 (16)</b> 6:17 8:7 80:21,22 135:1 143:18 146:19 172:16 173:19 176:23 181:18,22 223:16 254:20 273:9,12 <b>268 (2)</b> 229:11,12 <b>27 (6)</b> 6:19 8:8 137:2 149:5 187:15,19 <b>275 (1)</b> 4:6 <b>28 (7)</b> 4:12 6:21 191:17 195:11,15 225:23 245:12 <b>287 (1)</b> 4:7 <b>28th (3)</b> 188:8 190:19 286:17 <b>29 (8)</b> 6:23 55:16 71:4 79:24	80:21 204:19,23 251:24 <b>29th (2)</b> 72:11 252:12 <hr/> <b>3</b> <b>3 (9)</b> 4:16 46:17,24 55:24 55:25 103:15 121:15 167:25 205:13 <b>3/2/2017 (1)</b> 256:18 <b>3/23/2017 (1)</b> 256:21 <b>3:01 (1)</b> 286:17 <b>3:09 (2)</b> 200:19 202:22 <b>3:13 (2)</b> 48:7 213:12 <b>3:54 (1)</b> 236:11 <b>30 (11)</b> 7:3 76:10 82:2,5,10 206:9,13 237:13 240:6 242:13 253:25 <b>3000 (1)</b> 3:13 <b>30th (4)</b> 73:7,9 84:24 166:11 <b>31 (7)</b> 4:14 7:5 212:21,25 265:1,3,4 <b>3100 (1)</b> 158:24 <b>32 (3)</b> 7:7 214:2,6 <b>3261 (1)</b> 154:18 <b>33 (3)</b> 7:9 220:16,20 <b>34 (3)</b> 7:11 223:5,9 <b>35 (15)</b> 7:13 57:6,8,9 66:7,10 66:12,25 67:1 78:6 84:10,15 225:9,13 247:8 <b>36 (3)</b> 7:15 228:11,15 <b>37 (3)</b> 7:17 232:4,8 <b>37501 (1)</b> 181:23	<b>38 (8)</b> 7:19 237:3,7 273:25 274:1,3 275:7,25 <b>39 (8)</b> 7:21 8:9 239:21,25 245:6 252:22 258:13 286:14 <b>3971 (1)</b> 232:9 <hr/> <b>4</b> <b>4 (13)</b> 4:18 49:19,23 57:24 58:17 121:16 164:4 247:4,6 252:19 257:23 258:13 260:19 <b>4:00 (1)</b> 236:14 <b>4:27 (1)</b> 242:17 <b>4:33 (2)</b> 258:8,11 <b>4:42 (2)</b> 47:13 242:20 <b>40 (3)</b> 7:23 241:25 242:4 <b>40-something (1)</b> 177:14 <b>41 (7)</b> 8:3 252:16,18,20 253:2,3,6 <b>42 (1)</b> 252:15 <b>432 (2)</b> 83:20,24 <b>433 (7)</b> 45:24 46:1 78:15,21 79:6 80:12 81:24 <b>44022 (1)</b> 167:20 <b>443 (1)</b> 77:23 <b>46 (2)</b> 4:16 177:19 <b>4614 (1)</b> 1:7 <b>46537 (1)</b> 46:25 <b>47 (1)</b> 177:20 <b>475358 (1)</b> 223:10 <b>48 (5)</b> 82:12,14,15 205:14 254:9	<b>486 (7)</b> 93:22 94:11 255:17 255:19 259:16 260:7,16 <b>4883 (1)</b> 214:7 <b>49 (1)</b> 4:18 <b>4967 (1)</b> 188:13 <b>4976 (1)</b> 188:15 <b>4985 (1)</b> 72:23 <b>4th (2)</b> 245:21 246:1 <hr/> <b>5</b> <b>5 (3)</b> 4:20 67:22,23 <b>5/3/2012 (1)</b> 261:18 <b>5:15 (2)</b> 288:8,9 <b>5:51 (2)</b> 173:19 176:24 <b>50 (2)</b> 95:8 211:16 <b>5000 (5)</b> 111:13 186:19 187:11 188:16,22 <b>501(c)(3) (2)</b> 25:1 26:2 <b>51 (4)</b> 204:17 205:17 206:3 206:8 <b>5129 (2)</b> 242:4,6 <b>51869 (1)</b> 225:13 <b>5276 (1)</b> 239:25 <b>54 (1)</b> 247:14 <b>5500 (4)</b> 88:22 89:7,14,17 <b>5556 (10)</b> 89:21 90:5,11 91:12 94:7,17 104:17,24 105:5 134:11 <b>5562 (1)</b> 285:7 <b>5600 (1)</b> 165:22 <b>5601 (1)</b> 72:2	<b>5621 (1)</b> 70:22 <hr/> <b>6</b> <b>6 (4)</b> 4:22 69:18,22 74:6 <b>6:05 (2)</b> 47:18 48:8 <b>6:09 (2)</b> 242:23,25 <b>60 (2)</b> 12:7 142:20 <b>60,000 (1)</b> 84:9 <b>66-2 (1)</b> 257:14 <b>67 (1)</b> 4:20 <b>69 (5)</b> 4:22 113:25 114:2 263:20,24 <hr/> <b>7</b> <b>7 (16)</b> 4:24 70:18,22 78:13 82:4,12,13 251:12 251:15,19,23,25 252:5 254:8,9 259:17 <b>70 (1)</b> 4:24 <b>702 (12)</b> 113:20 114:4,7,12,16 114:25 115:8,16 264:6,19 282:7 285:9 <b>71 (1)</b> 5:3 <b>72 (1)</b> 5:5 <b>7382 (1)</b> 148:25 <b>7468 (1)</b> 157:5 <b>7474 (1)</b> 90:7 <b>75 (1)</b> 5:7 <b>7500 (1)</b> 89:1 <b>764 (6)</b> 112:5 113:13 114:3 177:13,21 282:4 <b>770 (1)</b> 171:25 <b>782 (3)</b>
---	--	--	---	--

143:9 146:11,13	<b>9</b>			
<b>8</b>	<b>9 (4)</b>			
<b>8 (8)</b>	5:5 72:14,22 85:8			
5:3 50:19 71:23 72:2	<b>9:01 (3)</b>			
80:9 84:2,3,4	2:6 9:3,16			
<b>84 (4)</b>	<b>9:29 (1)</b>			
81:24 82:8,13 254:9	31:8			
<b>85 (2)</b>	<b>9:30 (4)</b>			
5:9 125:15	31:11 151:14 155:1			
<b>8775 (1)</b>	155:11			
49:24	<b>9:42 (1)</b>			
<b>8777 (1)</b>	152:1			
51:7	<b>9:48 (1)</b>			
<b>8832 (3)</b>	154:22			
58:4,5,20	<b>90 (1)</b>			
<b>8838 (2)</b>	12:7			
53:23 59:5	<b>9065 (1)</b>			
<b>8847 (1)</b>	36:20			
59:20	<b>9067 (1)</b>			
<b>8850 (1)</b>	32:14			
60:3	<b>9070 (1)</b>			
<b>8856 (1)</b>	44:8			
60:9	<b>9098 (1)</b>			
<b>8859 (1)</b>	45:25			
60:18	<b>9322 (1)</b>			
<b>8862 (1)</b>	195:16			
60:25	<b>9399 (1)</b>			
<b>8865 (1)</b>	220:21			
61:6	<b>96 (2)</b>			
<b>8871 (1)</b>	116:11,13			
61:14	<b>99 (2)</b>			
<b>8874 (1)</b>	5:11 255:17			
61:23	<b>996 (1)</b>			
<b>8877 (1)</b>	99:13			
62:6				
<b>8880 (1)</b>				
62:13				
<b>8883 (1)</b>				
62:20				
<b>8889 (1)</b>				
63:3				
<b>8892 (1)</b>				
63:11				
<b>8898 (1)</b>				
63:18				
<b>8901 (1)</b>				
63:24				
<b>8924 (1)</b>				
64:7				
<b>8933 (2)</b>				
57:1 58:11				
<b>8th (5)</b>				
32:23 36:25 37:11				
49:13 214:16				